ENGLISH COLONIAL ADMINISTRATION UNDER LORD CLARENDON

1660-1667

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ENGLISH COLONIAL ADMINISTRATION UNDER LORD CLARENDON

1660-1667

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CHAPTER I.

The Official Colonial System.

The period between the Restoration of the Monarchy in 1660 and the Revolution of 1688 was, in England, an epoch of the greatest commercial activity and progress. The beginnings made in the time of James I, by the founding of commercial companies, had by the end of the Cromwellian epoch begun to produce abundant results. Trading companies had proved themselves successful and had increased in numbers until they now carried on their operations in all parts of the known world. In fact the experimental stage in English commercial expansion had been passed and the period of substantial gain had been entered upon.

The statesmen of the restoration period took up and furthered this policy of commercial expansion. New companies were chartered, the patents of old companies renewed and enlarged, and new colonies planted with a readiness which, if there were no other evidence, would demonstrate the deep interest taken in industrial matters. The navigation laws, already put on trial for the building up of the English shipping industry, were re-enacted, enlarged, and made more stringent. Laws were enacted for the encouragement of home manufactures and commissioners appointed from time to time to enquire into all the various needs of the several industries, how they could best be encouraged, what articles were in most demand, and what legislation was

necessary for their advancement.[1] Not only were these matters enquired into by the government, but they were also made the subjects of many tracts, treatises, or discourses in which the authors argued with much keenness of interest the various economic questions that troubled the minds of commercial classes of that day. Such questions as the abatement of interest, the effects of the navigation acts on the shipping industry, monopolies, and even free trade, were discussed in a manner altogether new.[2]

In this growing welfare of the mother country the colonies in America and the West Indies were playing a constantly increasing part. Evidence of this appears from the frequency with which reference is made to the plantations whenever the general subject of commerce and trade is under discussion in Parliament or in the privy council, and still more from the active efforts made to secure the benefits of the colonial trade by increasing the rigidity of those clauses of the navigation acts which applied to the colonies. Thus, in the preamble of the act for the prohibition of tobacco planting in England, occurs the following statement: "The strength and welfare of this kingdom do very much depend upon them (the plantations) in regard to the employment of a very considerable part of its shipping and seamen, and of the vent of very great quantities of its native commodities and manufactures, as also of its supply with several considerable commodities which it was wont formerly to have only from foreigners."[3] The recognition of

[1] Rymer Foedera, XVII, 410; Indewick, Interregnum, 74; Thurloe, State Papers, IV, 177; Domestic Papers, 1667, p. 607. In addition to the charters for the American colonies passed during Clarendon's ministry, the following companies were founded, enlarged, or reorganized:

1661, The Levant or Turkish Company, charter enlarged.
1661, East India Company, new charter.
1661, Royal Fishery Company of Great Britain.
1662, English-African, or Guinea Company.
1665, The Canary Islands Company.

[2] Some of the more noted publications were: Josiah Child, Discourse of Trade; Roger Coke, Treatise on Trade; William Petty, Commercial Arithmetick; Polexsen, Discourse on Trade.

[3] 12 C. II, c. 34.

the facts here stated resulted in the devoting of more attention to the development and management of the colonies. In fact, what has been called the beginning of a definite and consistent colonial policy has been ascribed to this period and to the authorship of Lord Clarendon. This policy was expressed in the navigation acts. While the principles upon which these acts were based, did not originate at the restoration, nor was Clarendon their discoverer, it was under the direction of that minister that their action was first brought to bear directly on the management of the colonies. The object of this policy was to make the colonies contribute solely to the wealth and prosperity of the mother country. To this end their own welfare was to be completely subjected. Their resources were to be developed along lines which would contribute to but not compete with the commerce of England. Anything that might interfere with the business of merchants at home, lessen the demand for goods that could be manufactured there, or decrease the custom duties levied on imports, was to be strictly avoided.[4]

Under these circumstances, it would appear that the administration of the colonies should have been closely associated with and dominated by the administration of domestic trade and commerce. This was not, however, the case during the ministry of Clarendon. At the restoration the privy council was revived as the nominal administrative center of the government. But while this body was to outward appearance the same that had wielded so much power under former kings, and was in fact composed largely of the same members as under Charles I, its real position in the state was henceforth quite different. Under Charles II, the privy council as a whole was a purely political body. It was never consulted except on matters of form and on occasions of ceremony.[5] Its membership was too large and too diverse for active business. For political purposes, the king had appointed a number of Presbyterians and their

[4] Cunningham, Growth of English Commerce and Industry, II, 153.
[5] Dicey, Privy Council, 135.

advice was looked upon by the Episcopalians as dangerous. Hence, Clarendon devised a scheme for the subdivision of the council into special committees, of which there appear to have been four principal ones, with the understanding that when special occasions required the king was to appoint others. This plan was not carried out strictly, but it did have the effect of centering the actual direction of affairs into the hands of a few persons. One of the committees, that for foreign affairs, composed of Clarendon, Southampton, Ormond, Monk, and the two secretaries of state, transacted all the most important business, both domestic and foreign, and became in reality a cabinet council which virtually superceded the privy council.

According to Clarendon's scheme one committee was to be devoted to trade and foreign plantations. Soon after the return of the king, this committee was appointed. It consisted of ten members and was to hold meetings "every Monday and Thursday at three of the clock in the afternoon."[6] But for some reason this plan was abandoned, for, some months later, two entirely different bodies were established, known as the Council for Foreign Plantations and the Council of Trade. The membership of these councils exceeded all bounds of select committees of the privy council. The commission for the first, under date of December 1, 1660, named forty-six persons beginning with Clarendon, and including all the principal officers of state; nine were members of the privy council; thirteen belonged to the nobility; while eleven were knights, eleven county esquires, ten merchants, and one was denominated a master in chancery.[7] On nearly the same date the council of trade was appointed likewise composed of lords, knights, esquires, and merchants to the number of sixty-one and with Clarendon again at the head.[8]

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[6] Sainsbury, Calendar of State Papers, Colonial, America, and the West Indies, 1660, July 4; O'Callahan, Documents Relative to the Colonial History of New York, III, 30.

[7] Colonial Papers, 1660, Dec. 1; New York Documents, III, 32.

[8] Calendar of State Papers, Domestic, 1660-1661, pp. 319, 353; N. Y. Doc., III, 30.

To this arrangement two criticisms suggest themselves. In the first place, the councils were too large and too cumbersome. Active business could not be readily dispatched by such an unwieldy body. In the council for foreign plantations, an elaborate organization was necessary with a president, secretary, treasurer, door-keeper, and messengers, and the council had to be divided into a number of subcommittees which reported to the council; the council in turn reported to the privy council and thus there was opportunity for numerous and unnecessary delays. No one felt the responsibility in such a large council, and great difficulty was soon experienced in getting sufficient attendance to hold a meeting. That this defect became apparent is shown by the attempts made to reduce the number of members. Soon after the fall of Clarendon the membership was lowered to ten; in 1675, the entire council was dismissed and an attempt made to get back to the original committee scheme, by transferring all colonial business to a committee of the privy council. In the second place, the administration of the colonies was separated from the general management of domestic and foreign trade, at a time when the sole purpose of a colony was avowedly to contribute to that trade. This was an innovation and did not prove satisfactory. Numerous commissions had been appointed by the rulers prior to this time to enquire into the state of trade and industry, but in these instances the consideration of foreign, domestic, and colonial trade, had not been separated. While this separation was not in itself objectionable and might have proved advantageous had the object of colonial administration not been such as it was, in the face of the economic theory then accepted it would appear to have been an unwise if not impossible undertaking. It is difficult to see how the administration of the plantations could be kept distinct from that of the trade, navigation, and commerce of the kingdom when it was the declared purpose of the government to use the colonies solely as feeders for home industries. Nor is it easy to

understand why such a separation was desirable even if possible. The interference of the two councils was inevitable. The farmers of the customs soon had cause to complain to the king that they were losing 10,000 pounds per annum by reason of the failure of the council for plantations to enforce the navigation acts in the colonies.[9] The disadvantages of this division were so great that, in 1672, this feature also of Clarendon's scheme was overthrown by the consolidation of the two councils into one body known as the Council for Trade and Foreign Plantations. This united management was retained in the councils and committees that appear during the remainder of the reign of Charles II, and the reign of James II, and was continued after the Revolution when the colonies were placed under the charge of the Board of Trade.

It seems to have been the intention of Clarendon to give the council for foreign plantations ample scope of authority to deal with all matter relating to the colonies. By its commission, that body was authorized not only to gather information from all sources, sift this, and make recommendations, but also to dispose of all matter relating to the good government and management of the plantations.[10] Yet this was not carried out. When the very first matter of any consequence came before the council, it found itself unable to dispatch a carefully considered letter to New England. It was made to await the pleasure of the king in council, and saw its work virtually thrown away by the long delay which followed. In fact the council, except as an agency for gathering information, proved useless. Clarendon, while he remained in the service of the king, was the actual director of the council for plantations as well as all the important committees of the privy council. Thus, as virtual prime minister, he had his hands full with the great questions of state, and it is not unlikely that many of the delays in the dispatch of colonial business were owing to

[9] New York Documents, III, 47.
[10] Ib., 34.

Clarendon's time and attention being taken up by other more weighty affairs. In this event the correspondence with the colonies, as well as the details connected with the transaction of colonial business, fell to the secretaries of state, two in number, both members of the council. The men who held this office during the ascendency of Clarendon were Sir Edward Nicholas, Sir William Morrice, and Sir Henry Bennet. The latter, better known as Lord Arlington, was chiefly noted for his utter unscrupulous subserviency to the king and his antagonism of Clarendon. Nicholas, whom he displaced in 1662, and Morrice who held the position until 1668, seem to have been industrious and efficient subordinates but were handicapped by lack of authority.

After the fall of Clarendon the management of the colonies became weaker and fell into great disorder. Numerous attempts were made to reorganize the council for foreign plantations on a more efficient basis but they all proved futile. It could not be expected that colonial administration would become stable or efficient while the home administration was in such a state of turmoil and transition as prevailed from 1668 to the end of the reign of Charles II. On the retirement of Clarendon the king attempted to become his own chief minister; it is, therefore, only necessary to remember his hatred for business, his unfaltering devotion to pleasures, and his shameful dishonesty in matters of public concern generally, to explain the weakness and inefficiency of the government during this period. For two years after the retirement of Clarendon, Lord Arlington was at the head of the council. Then in 1670 an entirely new body was appointed with the Earl of Sandwich at its head, few of the former members being retained. Here the names of Prince Rupert, Buckingham, Lauderdale and Culpepper appear, strangely enough, as colonial administrators. A year later the Earl of Shaftesbury became president of the council which was a decided improvement. But in 1674, the whole council for foreign plantations was discharged. The management of the colonies was then reunited with the

direction of trade by the appointment of a committee of the privy council on trade and plantations.[11] This organization was retained, with frequent changes in the membership of the committee, during the remainder of Charles' reign.

It has been stated that in the period following the restoration it became the policy of English statesmen to regard the colonies as existing solely for the benefits of the mother country. This being true it is not strange that the chief emphasis in the administration of the colonies was directed to the enlargement and enforcement of the navigation acts which expressed that policy. The navigation act of 1651 was intended by Cromwell as a blow to the maritime power of Holland. At that time the carrying trade of England was largely in the hands of the Dutch. To break up this practice, the law provided that imports and exports to and from England or the colonies must be carried in English ships and that certain enumerated articles, the chief of which were sugar and tobacco, could be exported from the colonies only to England or another colony. The resulting struggle between these two rivals for the supremacy in the shipping world led immediately to a commercial war in 1652.[12] Cromwell's law was revived in 1660 with but slight change except the additional requirement that ships must be English built, as well as owned and manned by Englishmen.[13] But from this time on the severity of the law was steadily increased and another object appears alongside the desire to harm the trade of Holland. The act of 1663 required foreign goods destined for the colonies to be first landed in England, and states that its object is to bring the colonies into greater dependence, increase the shipping and revenue of the kingdom and make "this kingdom a staple of the commodities of the plantation, it being the usage of other nations to keep their plantation's trade to themselves." It also increased the penalty imposed on colonial governors for

[11] Colonial Papers, 1668, Dec. 4; 1670, July (?); 1671, March 20; 1672, Sept. 16; 1674, Dec. 21; 1675, Jan. 2, Feb. 9; 1679, Apr. 22.
[12] Cunningham, II, 110.
[13] 12 C. II, c. 18.

violations of the act, by adding to the penalty of mere removal from office, that of incapacity to hold office under the king in the future, and a fine of 1000 pounds.[34] In 1672, the law was further extended so as to prohibit the carrying of the enumerated articles from one colony to another without first paying the duty which would be imposed had they been carried to England. And five years later this protective policy reached the absurd climax of prohibiting entirely the trade with France, on the ground that it produced an unfavorable balance.

There was, however, an apparent exception to this subjection of colonial to home interests, namely, the law for the prohibition of tobacco planting in England. The preamble of this act clearly sets forth that it is of great "concern and importance that the colonies and plantations of this kingdom in America be defended, protected, maintained and kept up, and that all due and possible encouragement be given unto them."[35] Yet it should be noted that other reasons have been assigned for this act, which possibly had equal weight with this philanthropic motive. Tobacco raised in England was inferior in quality to that produced in the colonies, and could never hope to supply the full demand; and as it was impracticable to levy an excise upon the home product the importation of tobacco from the colonies furnished an important source of revenue.[36]

As soon as the attempt was made to enforce the navigation acts the reasons for the supremacy of the Dutch in the carrying trade became apparent. The shipping of England was inadequate to meet the requirements of her trade. It is true that her merchant fleet increased rapidly after 1660, but for the time being the exclusion of foreign vessels from colonial ports worked a hardship on those who had vested interests in the colonies. The inhabitants of the Leeward Islands complained that their ports were empty. From

[34] 15 C. II, c. 4, 7.
[35] 12 C. II, c. 34.
[36] Cunningham, II, 154.

Barbadoes came the news that food and clothes were wanting and the people discontented; "free trade," it was said, "is the life of the colonies." The shipping of the sugar plantations fell from 400 to 150 sail in about five years, and the imports and exports dropped to one-third their former amount.[17] Lord Willoughby wrote from the Leeward Islands asking that the navigation acts be dispensed with, so that food might be procured from the nearest port, as the people were starving; even the king's fleet would at one time have been in great disorder had it not been supplied from New England. Governor Atkins, of Barbadoes, took the bolder ground that "for planting new colonies free trade is necessary; when the machine fails," he wrote, "that supplies the people with provision the engine must needs stand still." He urged that the king's customs would be increased and risks avoided if customs were paid in the colony instead of in England and "goods allowed to go where they please."[18] Soon after New York was conquered from the Dutch, Nicolls, the governor, wrote that the whole plantation was suffering, and the people going about naked, because no English ships came to take the place of the Dutch ships which had formerly carried on the trade. Conditions finally became so bad that Nicolls also advised the suspension of the navigation laws, so that vessels from Holland could trade at New York as formerly. But to all these appeals the authorities in England, influenced by English merchants and shippers, turned a deaf ear. Commissioners were sometimes instructed to enquire whether trade would improve if "more open and free," and once the expression occurs that "trade must be courted not driven." But on the whole there was never any doubt on the part of the ministers as to what was best to be done. The council for plantations stated that free trade for new plantations would prove dangerous to the others, and voted "to give Governor Atkins a cheque for upholding this maxim of free trade."[19]

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[17] Colonial Papers, 1664, Aug. 25; 1666, May 12; 1668, Jan. 23.
[18] Ib., 1672, April 8; 1676, July 4.
[19] Ib., 1676, Oct. 26; 1681, Dec. 12.

In fact, as to the navigation laws, the question was not as to their wisdom, but the means of administering them. In the face of the lack of English shipping, this proved to be a very difficult undertaking. A circular letter was dispatched to all the colonies in 1663 requiring the several governors to see that the laws were properly enforced.[20] It was soon found that the existence of Dutch plantations in close proximity to the English was the most serious obstacle in the way of the success of the policy. Accordingly in 1664, the conquest of the most important Dutch colony was undertaken. New Netherland was annexed and this obstacle overcome. But during the war which followed and which lasted until the close of Clarendon's administration, no progress was made toward securing the main end aimed at, so that immediately after Clarendon's retirement the council for plantations reported an almost universal disregard of the navigation acts in America and the West Indies.

Another object, expressed when the council for plantations was appointed in 1660, was to draw the colonies into a closer union with one another, increase their dependence upon the mother country, and establish one uniform system of administration for them.[21] There was great need for the carrying out of this purpose. During the administration of Clarendon, as well as that of the succeeding ministers, the condition of the colonies "cried aloud for the authority of the crown."[22] Whenever the council for plantations did interfere, it found dishonesty and contention. Especially was this the case in New England where the religious and

[20] See below, p. 65.

[21] The commission for the council for plantations, December, 1660, states that the colonies "should now noe longer remain in a loose and scattered but should be collected and brought under such an uniforme inspection and conduct . . . ." Instruction for the same, par. 4; "and all of them being collected into one viewe and management here, may be regulated and ordered upon common and equall ground and principle"; par. 5; "and for the bringing of the several Colonies and Plantacons, within themselves, into a more certaine civill and uniforme of government." N. Y. Doc., III, 32, 34.

[22] Colonial Papers, 1677-80, preface, 55.

territorial disputes were ready at any moment to terminate in bloodshed. In other places the existence of political cliques, or the fear of foreign invasion equally demanded some sort of efficient supervision from England. Many obstacles stood in the way of harmonizing these differences. In the first place the charters or constitutions of the several colonies were widely different, and to this difficulty Clarendon deliberately added, when he passed new colonial charters providing for such diverse communities as the almost independent democratic states of Rhode Island and Connecticut and the virtually sovereign proprietary dominions of Carolina and New York. Here, it would seem, was the opportunity to take a long step toward securing uniformity and system, by erecting the new colonies according to a consistent plan with the end in view of maintaining a close connection with the central administration in England. Just the opposite was done. If the purpose expressed in the appointment of the council was ever really understood, it was quickly lost sight of.

Another difficulty in the way of close dependence and uniform control, was the inadequate means of communication with the plantations and between the several plantations, and the consequent delay and expense in obtaining reliable information regarding them. From first to last this problem stared the council for plantations in the face. On the whole there was a genuine spirit of fairness manifested to hear the arguments of the colonists before taking action, and more than one delay was occasioned because their side of the case had not been presented.

Many expedients were tried to overcome this deficiency. In 1663, an order was issued for the establishment of a post system among the colonies, under the management of the postmaster-general of England. The central office was to be in Barbadoes, with branches in other colonies, and the governors were instructed, "to take care that a constant correspondence may be had from all parts as often as opportunity affords."[28] Requests for information were re-

[28] Colonial Papers, 1663, June 1.

peatedly sent out to the several governors, who frequently delayed, or failed entirely to answer them; or the answers which were received were laid aside and forgotten. Agents from the colonies were required to attend the council in England and answer questions but they frequently failed to bring, or refused to give definite information on the points at issue. In the failure of all these methods, the king, in 1664, went to the "extraordinary charge" of sending commissioners to the plantations in New England to investigate conditions, settle disputes, gather information, and bring in a report. The commissioners, four in number, remained in the colonies nearly two years, travelled throughout New England, and on their return made a report to the council for plantations. Yet even the information thus obtained was defective and one sided. In appointing and intrusting the commissioners fatal defects appeared, showing that the ministers in England had as yet little conception of the real conditions existing in the colonies.[24] The report was laid aside, nothing was done for ten years to investigate or carry out the changes and suggestions it made, and consequently the whole field had to be gone over again, when, finally, in 1675, the council for plantations was reorganized, and the affairs of New England again came under consideration.

[24] See below, pp. 82, 146.

CHAPTER II.

The Royal Charters of Connecticut and Rhode Island.

News of the restoration of the Stuarts to the throne of England was received in the American colonies with varying degrees of satisfaction or disapproval. In Maryland and Virginia the change of sovereignty was accepted without opposition. To Lord Baltimore it was welcome because it at once put an end to the attempts to overthrow his power in the province. The endeavors of Fendall to establish a commonwealth in Maryland fell to the ground as soon as it was known that the commonwealth government in England had given way to the monarchy. In the month following the entry of Charles II into London, Baltimore commissioned his brother, Philip Calvert, who was then in the province, as lieutenant governor.[1] On the 19th of November, the governor proclaimed his authority in the name of the proprietor. On the same date another proclamation announced the accession of Charles II, to whom the crown of England, "did by inherent birth-right and lawful and undoubted succession descend."[2] To this authority the people were commanded to submit. Pardon was offered to all engaged in the late sedition, except Josiah Fendall and John Hatch. On November 29, Fendall submitted to the authority of Governor Calvert, and was placed in prison to await trial. Not less prompt was the acceptance of the king's authority in Virginia. There, in 1658, the protector, Richard Cromwell, had been proclaimed, and his authority recognized. When, however, news of the events of the following year leading to his downfall reached the colony,

[1] Archives of Maryland, Proceedings of the Council, 391.
[2] Ib., 392, 393.

the hopes of the royalist party were revived. The assembly which met in the spring of 1660 anticipated the accession of the king by electing a royalist governor, William Berkeley, with the announcement that the supreme authority within the colony should remain in the assembly "until such a command and commission come out of England as shall be by the assembly adjudged lawfull."[3] In October, the first assembly, after the restoration had been accomplished in England, styled Berkeley, "his Majestie's Governor." Thus the sovereignty of the king was fully recognized without protest. In March, 1661, Berkeley was sent to England to represent the colony before the king from whom he was soon to receive a royal commission and instruction confirming him in the position to which he had been chosen by the colonists.[4]

In the New England colonies, on the other hand, the change of government in the mother country was by no means so acceptable. During late years these communities had grown accustomed to the management of their own affairs. Having escaped the attempt of Charles I to destroy their liberties, they had welcomed the supremacy of parliament, because in parliament they recognized a form of government similar to that which they desired to maintain for themselves. This government had shown itself friendly to their religion and had interfered but little in civil affairs. Three of the communities had taken on corporate existence in this period and still, in 1660, held patents granted by parliament. Massachusetts, whose charter antedated the late disturbances in the mother country, had assumed a more independent position and had resisted the attempts even of parliament to interfere in her government. While a friendly correspondence had been maintained equivalent to a vague recognition of sovereignty, in none of the New England colonies had the authority of Oliver Cromwell been formally proclaimed. Massachusetts had ignored an ex-

[3] Hening, Statutes at Large, I, 530.
[4] Ib., II, 9, 17.

press command that announcement should be made of the accession of his son, Richard Cromwell.[8] In short, these colonies had given evidence that what they desired was not only freedom for their religious principles, but autonomy in civil matters as well. Their cry was not for recognition and protection, but simply to be let alone.

Nothing could have suited the New Englanders better than to have continued in this indefinite relation with the mother country. Consequently, the news that Charles II had ascended the throne filled the minds of the people generally, except those in Rhode Island, with grave forebodings. Especially was this true of Massachusetts, which had in many ways assumed a leadership among the Puritan communities. Thus, news of the progress of events in England was long discredited, and, when it could no longer be doubted, was made the occasion of public fasts and prayer. It was feared that the restoring of the Stuarts to the throne meant that "the reformation gained by so much war and blood should be given up again to Papists and heretics."[9] No official notice was taken of the event until long after the king had been seated on his throne, his government formed, and their agent in England, Leverett, had informed the colonists that their inaction was causing unfavorable criticism.

This extreme attitude was not, however, adopted by all of the neighboring colonies. While none of the New England colonies were as prompt in recognizing the accession of the king as Maryland and Virginia, they were not all as dilatory as Massachusetts. Rhode Island was most loyal in her attitude. Although this colony had accepted a patent from parliament, her people probably felt that as compared with the treatment they had received at the hands of the New England Confederacy, from which they had been excluded, they had little to fear from the king. Promptly,

[8] Hutchinson, History of Massachusetts, I, 193.

[9] Diary of John Hull, Archæologia Americana, Col. of Am. Antiq. Soc., III. Hull made this entry under date of Jan. 15, 1660.

therefore, on the receipt of a letter from Clarke, their agent in London, the court of commissioners met at Warwick and ordered that "the officers of the trayne band of this towne doe rally the company or trayne band of this towne together to solemnize the proclamation" of the king the next morning at 8 o'clock, October 19, 1660. All other towns within the jurisdiction were ordered to do likewise and all writs and public documents were ordered to be made in the king's name.[7] Plymouth did not take similar action until June, 1661, when the king had been on the throne more than a year.[8] In Connecticut there was some delay which the court attributed to the fact that the news arrived in the dead of winter, when it was impossible to get the members together. But at the beginning of spring, 1661, the court met and voted it to be their "duty and very necessity" to declare allegiance and loyalty to Charles II; "declaring and professing ourselves, all the Inhabitants of this Colony, to be His Highness loyall and faythfull subjects."[9]

New Haven, following in the influence of Massachusetts, was more dilatory. In the latter colony the proclaiming of the king was a matter looked upon with the greatest fear and approached with profound reluctance. News as to what was going on in England reached the colony before the adjournment of the May court, 1660.[10] In July, a ship's captain brought definite information of the acts of the convention parliament. In October there was another session of the court in which a motion was made for an address to the king, but it failed to pass, on the ground that England was yet in a very unsettled condition.[11] On November 30, a vessel arrived bringing official news of the restoration, and with it the equally unwelcome information that the delay of

[7] Rhode Island Colony Records, I, 432.
[8] Brigham, Charter and Laws of the Colony of New Plymouth, 134.
[9] Colonial Records of Connecticut, I, 361.
[10] Hull, Diary, May 31, 1660.
[11] Hutch. Hist., I, 194. One of the ministers, John Norton, who was afterward agent for the colony in England, made the motion and urged its passage on the ground of public policy.

Massachusetts in recognizing the king was producing adverse comment at court.[12] Accordingly, a few weeks later the court prepared addresses to the king and parliament, praying for favor, but made no public acknowledgment of the new sovereignty. Thus matters were allowed to drift along in the vain hope that something might occur to render unnecessary the dreaded act. In the following May the alarm of the colonists was increased by the receipt of their first official communication from the royal government, the order for the arrest of the regicides. The magistrates had already debated what course to pursue in such an event and the governor acknowledged the warrant and ordered its execution.[13] A few weeks later a favorable answer to their address was received in the form of a letter from the king promising to respect the liberties of the colony. But this communication was not even answered.

There was, however, considerable opposition to this prolonged inactivity. In May and June, 1661, petitions from several towns were presented to the general court, asking that the king be proclaimed forthwith, that earnest efforts be made to execute the warrant against the regicides, and that an answer be given to the king's recent letter. The omission of these matters, the petitioners urge with much truth, "will give too great occasions both to Himself and to our Enemies to question the Integrity of your late Address and to brand us as infamous for hipocricy."[14] But these appeals fell upon deaf ears. The magistrates still refused to recognize the king by any public act or to make any change in the style of their public documents. It was not until news arrived that the privy council was preparing to send peremptory orders that the king be proclaimed and allegiance formally owned that further delay was seen to be useless. Accordingly, on August 7, the general court

[12] Hutchinson, Collections, 322.

[13] Hull, Diary, 1661, Feb. 27; Records of the Colony of Massachusetts, IV (i), 450, 453 (ii), 26.

[14] One of these petitions, signed by 36 persons, is preserved in Mass. Archives, vol. 106, p. 36.

was assembled and public proclamation made that Charles II was their lawful sovereign, care having been first taken that there should be no outburst of enthusiasm or noisy demonstration of loyalty on the occasion.[15] A letter was at once dispatched to New Haven informing that colony of the dissatisfaction at court, and of the action taken at Boston, and on the 21st of the same month the king was there proclaimed in due form.[16]

Thus, it was more than fifteen months after the king had ascended the throne that his authority was recognized in one of is largest dependencies. This fact is significant. Of all the American colonies, Massachusetts had most to fear from the king. Her commanding position in the confederacy, as well as the independent attitude she had adopted in her public acts were sufficient to make her position under the king insecure should those acts once become, as they were certain to become, the subject of investigation in England.[17] The colonists realized this danger as they learned of the doings of the new government in England. The desecration of the graves of Cromwell and the parliamentary patriots, the restoration of bishops, the corporation and uniformity acts, the expulsion of two thousand Presbyterian clergymen, were sufficient to make the magistrates extremely anxious about their future. By delaying the proclamation of the

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[15] Mass. Rec., IV (ii), 30. Hull states that there was a great multitude of people all standing bare and that the ceremony ended with "a shout sundry volleys of shot from the soldiery, the guns in the castle, fort, tower, and ships. All the chief officers feasted that night at the expense of the country." Diary, Aug. 8. After the proclamation had been attended to the court prepared another address to the king, which for empty laudation of the monarch it would be difficult to surpass. Charles is termed the "best of kings, who to the other titles of royalty common to him with other gods amongst men, delighted therein to conform himself to the God of gods, etc." The magistrates thought better of the matter, however, and did not send the address. Mass. Rec., IV (ii), 32; Hutch. Col., 341.

[16] New Haven Colonial Records, II, 419, 422.

[17] That the magistrates apprehended at this time the loss of their charter is shown by their instructions to Leverett in Dec., 1660. "If any objection be made that we have forfeited our patent in several particulars, etc." Mass. Rec., IV (i), 456.

king they did not improve their position. Compared with all the other colonies, except New Haven, their action in this respect was disrespectful if not disloyal. Long after the other colonies had made satisfactory representations at court, Massachusetts left her agent, Leverett, without instructions, so that ground was given for the complaint, soon to be made, that the colony had withdrawn her representative and did not intend to recognize the king. Thus from the very beginning it must have been apparent to Clarendon that the chief problem with which he would have to deal in the administration of the colonies would be in connection with Massachusetts.

Meanwhile, by the opening of the year 1661, the council for foreign plantations had completed its organization for active business. Already, prior to this time, a number of important items of business had been decided upon. Berkeley had been appointed by the king governor of Virginia the previous July, though he had not yet departed for his new government. During the same month Lord Francis Willoughby was restored to the governorship of Barbadoes, from which he had been thrust out by the authority of Cromwell, and in the following February, Colonel Edward D'Oyley was appointed to a similar position in the newly acquired province of Jamaica, with authority to choose his own council, and instructions to establish a civil government in the island in the place of the military government under which it had been placed by Cromwell.[18]

It was in connection with this Jamaica business that the affairs of the New England colonies were first brought definitely before the council. On January 7, 1661, the council for foreign plantations appointed a committee of sixteen, with Sir Anthony Ashley Cooper at the head, to obtain information and make recommendations concerning New England and Jamaica; another committee was instructed to write letters to the colonies. A week later the

[18] Calendar of State Papers, Colonial, 1660, July 9, 31; 1661, Feb. 8.

former committee brought in its report about Jamaica, but had not yet sufficiently informed itself regarding New England.[19] The difficulties in the way of obtaining reliable information concerning these communities was thus experienced from the beginning. It was, in fact, several months before anything definite was accomplished.

There were, however, a number of persons in London at this time with grievances against the New England government, so that evidence on one side of the question at least was not wanting. On March 11 and 14, these men were called in and given an opportunity to state to the committee their knowledge. One, Edward Godfrey, formerly governor of Maine, complained that he had been expelled from his government after having resided in the province for over twenty years, and gave his opinion that the pretext of "propagating the gospel in New England are in effect to establish there a free State."[20] Testimony of a worse nature was given by one Captain Thomas Breedon.[21] Not only was New England like to become a free state, he said, but this change was actually in progress. The distinction between church-members and non-members is as notorious as that between roundheads and cavaliers; a gentleman supposed to be the king was arrested in Massachusetts and would have been sent to England had not some one appeared who better knew the king; in December last

[19] Colonial Papers, 1661, Jan. 7, 10, 14.

[20] Ib., Feb. 19, Godfrey's statements were evidently inflamed by personal animosity. In 1629 he had been Gorges' agent in Maine. In 1646 he was chosen governor by a court at Wells. New Hamp. Prov. Papers, I, 68; Williamson, Hist. of Me., I, 303, 335, 677. When Massachusetts took possession of Maine in 1652, he at first resisted, and then submitted and became a freeman of that colony. Later he became dissatisfied about certain grants of land near York and went to England to represent his case there. Mass. Rec., IV (i), 129, 208, 229.

[21] Colonial Papers, 1661, March 11. Breedon was a commercial adventurer. He was in Massachusetts as early as 1657. Mass. Rec., IV (i), 342. In 1662 he was in England and fraudulently obtained an appointment as governor of Nova Scotia from which he was immediately put out. Colonial Papers, 1662, Feb. 28. The same year after returning to Massachusetts, he was fined for attempting to usurp authority over the government. Mass. Rec., IV (ii), 69.

the council sat a week before they could agree to write His Majesty, there being so many opposed to "owning the king or having any dependence on England;" they have not proclaimed the king and do not act in his name and do not give the oath of allegiance, but force an oath of fidelity to their own government; for his attitude against Whalley and Goffe he was maligned and threatened; two-thirds of the soldiers are non-freemen and would be glad to have an officer with the king's commission and a governor from the king; many laws are contrary to those of England and many thousand pounds are lost yearly because of illicit trade with the French and Dutch. In support of this testimony, Breedon presented a book of laws of Massachusetts. Breedon and Godfrey were in frequent attendance on the Council, along with others who had complaints. Some English merchants had expended 50,000 pounds in developing iron works in New England, but for some pretended debt their estates have been seized and withheld, and they asked relief at the hands of the council. An outcast from Barbadoes testified that he was dragged from his lodging in Boston, and thrown in prison for merely walking on the streets after sunset on Saturday evening. A petition was presented in behalf of the Quakers complaining of illegal fines, imprisonment, and whipping; their ears have been cut off, their faces branded, estates seized, and they themselves banished. They have feared to petition the king lest, not being recognized, they would be punished for it. They ask for laws of England and a governor appointed by the king. On March 14, Godfrey again gave testimony advising the appointment of a general governor. He complained that he had waited three years in Massachusetts for redress before coming to England and that then Leverett, their agent, refused to recognize him. Early in April a petition arrived from Ferdinando Gorges calling attention to the usurpation of Massachusetts in his province of Maine and asking for relief. In May came further complaints and petitions from the Quakers. Eighteen cases of whipping were separately

described and a "compendious representation" made of "cruel and inhuman sufferings inflicted," embracing twenty-eight cases of whipping, three of cutting off ears, including that of a woman sixty years old, and twenty-two of banishment on pain of death. Appeals to England were forbidden.[28]

While all this testimony was accumulating against Massachusetts, that colony, as has already been pointed out, had done nothing to offset it. Indeed, the fact that the king had not yet been proclaimed would, at the English court, go a long way to confirm certain of the statements made by Godfrey and Breedon. The address from the general court which had been sent the previous December was presented to the council of foreign plantations by their agent, Leverett, on February 11. But while it was profuse with assurances of loyalty, it contained no convincing evidence or guarantee that the king's authority was legally recognized in the colony. In it, the authors reviewed the causes which had led them to move to the wilderness, and justified their leaving their native country on religious motives and not because of "any dissatisfaction as to the constitution of the civil state." They anticipated the charges of the Quakers by admitting that they had been banished and had brought "blood upon their own heads" by returning. The Quakers were denounced as "malignant and assiduous promoters of doctrines tending to subvert both our Churches and State." Yet there was a tone of suspicion and fear as to their standing before the king. Their conduct has been such as the king would not approve, they fear it will be reported to him and they will be denounced; but aside from condemning the Quakers they have not a ward to correct any false impressions about their laws or government. "Touching complaints put in against us, our humble request only is, that for the interim wherein we are dumb by reason of absence, your Majestie would permit nothing to make an

[28] Colonial Papers 1661, March 14, April 4, May 17.

impression upon your Royall heart against us untill we have opportunitie and license to answer for ourselves." And again, "Let not the king hear men's words."[23] Yet their agent was in London at this time and received a letter of instructions along with this very address. Had he been properly authorized he might have done something to counteract the adverse testimony before the council. The cause of their being "dumb by reason of absence" was that Leverett was so limited that he could do nothing. On only two points was he told to use his judgment and knowledge to obtain the best conditions possible, namely, regarding the iron works and the Quakers. If called upon to answer other particulars, he was told: "give them to understand that wee could not impower any agent to act for us, or answer in our behalf, because we could not foresee the perticculars wherewith wee should be charged."[24] The petition to parliament was of much the same perfunctory character as the address to the king. Referring to the dispute about the jurisdiction in Maine, it stated that they had been requested to assume the government of that province by the inhabitants and had complied only after they had found, after a careful survey, that it came within their boundary, and "not out of desire to extend a dominion."

These petitions were all that was offered to the council for plantations against the personal testimony of men like Godfrey, Breedon, John Mason, and Ferdinando Gorges, the two latter being well known at court. Instructed as he was, Leverett, who might have done much at this critical time to defend the colony against false accusations, did nothing, except to keep the magistrates well informed by frequent letters, as to the trend of affairs in England. The receipt of the petitions was acknowledged by the king in February in a polite letter expressing good-will toward the colony and promising to settle its affairs favorably to the people.[25]

[23] Mass. Rec., IV (i), 450. The petition is dated Dec. 19, 1660.
[24] Ib., 456.
[25] Colonial Papers, 1661, Feb. 15.

But the magistrates of Massachusetts, suspicious of the word of a Stuart king, made no reply to this friendly note, hoping thereby to avoid as far as possible the discussion of their affairs at court. They thus neglected the opportunity of entering into a friendly correspondence with the king before any decisive action could be taken against them.

Accordingly, at the beginning of April, the sub-committee of the council for foreign plantations brought in a report on New England, based upon the evidence they had been able to collect. They recommended that a letter be sent to Massachusetts informing the colonists of the appointment of the council, and instructing them to proclaim the king "in the most solemn manner." The complaints were referred to but not stated very specifically, and the colonists were required to collect their laws and records in order to vindicate themselves "to be a people not unworthy the large privileges and concession bestowed upon them." They were to send a description of their government, and their trade, and to appoint persons to represent them.[28] This letter was not destined to reach the colony. The council for plantations referred it, together with the complaints and petitions, to the king's consideration in the privy council, where it was disapproved. In their report made at this time, the council for plantations stated that the Government of Massachusetts had "strayed into many enormities and invaded the rights of their neighbors,—exceeded and transgressed their grants and powers;" enacted laws repugnant to those of England; managed their trade against the interests of the crown; weakened their dependence on England by increasing their stock of sheep to near 100,000; their agent, Leverett, claims that his agency has expired, "by all which it appears that the government there have purposely withdrawn all manner of means for their affairs to be judged of in England as if they intended to suspend their absolute obedience to the king's authority." In another

[28] Colonial Papers, 1661, April 8. The letter was ordered to be drawn up, "like those sent to Barbadoes and Virginia."

report, undated, but apparently within a few days of the above, the king was urged to send the letter without delay and to bring the colony into "such a compliance as must be necessary, as they are an English colony, which ought not and cannot subsist but by a submission to and protection from his Majestie's crown and government." But at the same time the council for plantations admits that it is "in no capacity to give any judgment therein, having heard but one side." After about three week's delay, the privy council decided that the letter was "not thought fit to be sent now, nor at all by the Council of Plantations."[27] There is no explanation as to what caused this unfitness. Certainly both the letter and the accompanying report were entirely warranted by the evidence so far at the command of the council. Accompanied as they were, by the desire to hear the other side of the question before coming to any final decision in the matter, it was unfortunate that the letter was not promptly dispatched. More than a year elapsed before any action was taken in its place.

The responsibility for this delay must rest with Clarendon, who was not only the chief adviser of the king, but also the head of the council for foreign plantations.[28] He seems to have had in mind at this time a reorganization of the council. It was too large and its membership too diversified for efficient service. Accordingly, an attempt was made to reduce the number of persons responsible for the management of the colonies. On the same day that the above letter was disapproved, an order in council was issued naming Clarendon and nine other high officers, together with the two secretaries of state, "a committee touching the settlement of the government of New England—for the purpose of framing letters, proclamations or orders, for the king's

[27] Colonial Papers, 1661, April 29, 30; May 17.

[28] That Clarendon personally had the business in charge appears from a memorandum addressed by him, some months later, to Secretary Nicholas calling for the papers relating to New England, which he had formerly delivered to Nicholas. Colonial Papers, 1661, Dec.

signature."[29] But for some reason this plan was not carried out, for nothing more is heard of the committee. Meanwhile, in the delay occasioned, Clarendon missed what probably would have proved the most opportune moment for a dispatch calling upon the delinquent New England colonies to perform their duty as dependencies of the crown. Had the letter prepared by the council of plantations in April been sent out at once, it would have reached Boston in the midst of the agitation there about the proclamation of the king. The petition which had been presented to the general court in June, called upon that body to make "all endeavors possible to Answer his Royall Warrant" regarding "Such as are fled into this country from Justice in England," and proposing "whether after the example of our Neighbour colonies you may not with Safety, you ought not in Duty to proclaim his Royal Majesty."[30] These were the very demands which the proposed letter was to make upon the colonists. It may well be asked whether, had this letter been in the hands of the magistrates, and its contents known to the people, the petitioners would have remained quiet, or the court would have been able to ignore them.

Clarendon's delay has been attributed to his timidity. It is thought that he overestimated the strength of Massachusetts and hesitated to offend her until affairs at home should become more settled and better information obtained from New England.[31] But the settlement at home was no longer in doubt, inasmuch as the cavalier parliament, so subservient to the king's desires, had already been chosen, and assembled two weeks prior to the disapproval of the proposed letters.[32]

Moreover, if Clarendon feared the strength of Massachusetts and her neighboring colonies, there was all the more reason for prompt and consistent action. But as a matter of fact there was nothing in the letter to offend the colony.

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[29] Colonial Papers, 1661, May 17.
[30] See above, p. 24.
[31] Palfrey, History of New England, II, 494.
[32] Parliament met May 8; the letter was disapproved May 17.

Taking into consideration the evidence before the council, its tone was exceedingly mild, and its demands entirely warranted. It ordered the proclamation of the king which ought to have been attended to long before, but which was not accomplished until some months later. Then, expressing a desire to hear both sides before coming to a decision on other matters, it required the sending in of the very information for which he is supposed to have been waiting. And again, on this assumption, the minister was inconsistent, for within three months he allowed an order for the freeing of the Quakers from persecution, much more likely to displease the New Englanders, to be carried out to the colony by an exiled Quaker, a person who could not but be offensive to them.[33] Under these circumstances, it seems far more probable that the letter was at first held up on account of Clarendon's plan for reconstructing the council for plantations, and was then overlooked or forgotten by the busy minister in the press of other affairs, and that the delay had no connection with any extensive plan or policy in the mind of Clarendon for the future reduction of Massachusetts.

This order relating to the Quakers, which was the only definite act decided upon in connection with New England during the remainder of the year 1661, was brought about by additional testimony adverse to the colony. Thus, Colonel Thomas Temple informed Secretary Morrice that he believed that the regicides were still in the colonies; and John Crown testified that when Whalley and Goffe arrived at Boston they were embraced by the governor, Endicott, and welcomed to New England, that they were held in high esteem, visited by the chief men of the colony, and preached and prayed at their meetings.[34] As these men had both been eye-witnesses of the proceedings in the colonies and were

[33] Colonial Papers, 1661, Sept. 9.

[34] Ib., 1661, No. 161, Aug. 20. Temple was interested in the proprietorship of Nova Scotia and had passed through Boston on his way to England to look after his interests. He was appointed governor of that region July 17, 1662.

known at court, it may be supposed that their words had some weight. In anticipation of these statements, Governor Endicott wrote to the king. He stated that diligent search had been made for the regicides and warrants issued for their arrest, and enclosed the court's order to this effect, as well as the sworn report of the two officers engaged to apprehend them.[35] But his report was at best that of a failure to carry out the king's orders and could hardly offset the testimony as to his, Endicott's, friendly reception of the outlaws. And the report of the officers employed for the task of arresting the regicides contained abundant evidence of the insufficiency of the measures taken to faithfully execute the warrant.[36] Moreover, the governor made no attempt to answer other complaints. Especially was he silent touching the Quakers. Accordingly, the king, appealed to by members of the sect in England, on September 9, ordered a letter to be sent to New England directing that all proceedings against them should cease and that those under accusation or in confinement should be sent to England for trial. And on the request of one of the leaders of these English Quakers, Edward Burrough, he consented that the letter should be carried to the colony by one Samuel Shattock, a Quaker who had been imprisoned and banished from Massachusetts. Thus, if danger was to be apprehended by offending Massachusetts, the very step was taken certain to bring about that end.[37]

In Massachusetts, meantime, the attitude was that of sullen compliance with the orders from England when these could no longer be avoided. The order of the general court

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[35] Colonial Papers, 1661, Aug. 7.

[36] Their report is printed in full in Hutch. Col., 334. The officers themselves were zealous enough but they were strangers to the country.

[37] Sewel, History of the Quakers, II, 345-8. Shattock reported that the people "were somewhat struck in Amaze when they sawe what we were." Not being noticed at first, he came ashore, and "found all very still & a very great calm." When he came before the governor, the latter, "had few words with us, only asked why I came again; and why I did not send for my family to England." Mass. Hist. Soc. Coll., 4th series, IX, 160.

for the arrest of the regicides, and the means employed to execute it, were so defective that there was not the slightest chance of its meeting with success. In like manner, the command to cease disturbing the Quakers, though unwelcome was obeyed. Doubtless it was a bitter pill for a man of Endicott's temperament and belief to receive a letter of this import from one whom he had recently treated as a criminal.[38] Nevertheless a special session of the court was called on November 27, 1661. Here the magistrates expressed their belief that if the king were rightly informed he would not have thus favored the Quakers, yet in order that they might "not in the least offend his majesty," they ordered that the laws in question should be suspended in so far as they affect corporal punishment or death, until "this court takes further order."[39] None of the Quakers were, however, sent to England for trial. Instead, a few days later the council issued an order to the keeper of the prison at Boston directing him "forthwith to discharge and release the Quakers" in his custody.[40]

The king's order for the relief of the Quakers brought to the magistrates a fuller realization of their delinquency at court and hastened preparations for sending representatives there.[41] From time to time the court had already debated the expediency of raising money "to be always in readiness" for use "in the prosecution of such business of our colony as shall fall out." But the strict Puritan party had delayed final action on this matter, as they had the proclaiming of the king, until compelled to it by necessity.

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[38] Bishop says, it was as a "dagger in (his) heart," and that on Shattock's arrival he "fretted with himself." History of the Quakers, 344. The only answer the magistrates gave Shattock was, "We shall obey his majestie's command." Sewel, II, 345.

[39] Mass. Rec., IV (ii), 34.

[40] Sewel, II, 345. Palfrey, without referring to this order states that the command of the king "produced little effect." Hist. of New Eng., II, 520. It, however, had a very decided effect. See below, p. 52.

[41] In the letter sent to Lord Say at this time the magistrates state that the chief object in sending the agents is to get relief from the Quakers. Hutch. Coll., 360.

It was not until near the end of December that at a special session of the general court, they could bring themselves to the actual naming of agents to go to England to represent them at the court of their sovereign. At the same time a committee was appointed to make the necessary arrangements. In this committee which met ten times between January 4 and February 7, 1662, serious discussion arose not only as to the proper representations for the agents to make the council for plantations, but also as to the expediency of their going there at all.[42] The strict party opposed it, fearing that the agents might make some concession prejudicial to interests of the colony. This element was led by the governor and deputy governor, Endicott and Bellingham, both of whom refused to attend the session of the committee; and though the latter's presence was repeatedly requested, he persisted in excusing himself. This distrust of the agents was owing partly to the fact that one of those selected for the mission, Norton, minister in one of the independent churches, had been the first to oppose, in the preceding year, a public recognition of the king, while the other, Bradstreet, was known to be of a slow and timid nature. The party that supported the movement came from the younger commercial element which was not so strict about abstract principles of theology, and believed that the best interests of the colony lay in an open compliance with such demands of the mother country as their colonial relations required. It included many of the signers of the petitions in the previous year, and the selection of Norton as one of the agents may be taken as an index of their increasing influence.[43]

The instructions finally agreed upon by this committee for the agents, reveal again, as had the instructions to Leverett, the policy of delay and inaction. Bradstreet and Norton were authorized to represent the colonists as loyal subjects,

[42] Proceedings of the Committee, Hutch. Coll., 345-71.

[43] The heaviest contributor toward the expenses of the agents was Hezekiah Usher whose name was prominent on the petition of June 19. Mass. Archives, 106, 36.

and to endeavor "to take off all scandall and objections" against the colony; "you shall, as opportunity presents, endeavor to understand his majesty and councill's apprehentions concerning us, and to endeavor the establishment of the rights and privileges we now enjoy." But, it was ordered, "you shall not engage us, by any act of yours, to anything which may be prejudiciall to our present standing according to pattent."[44]

This meant that the colonists expected to maintain the same indefinite relations with England that had prevailed during the commonwealth period, and that the agents were to make no arrangements which would provide for the proper use of the king's name in the enacting of laws or the dispensing of justice. In other words, they wished to continue in the enjoyment of the virtual independence to which they had become accustomed. The agents were so restricted that they could make no positive engagement and for this reason were sent home by the king almost as soon as they arrived in England. In addition to the instruction for the agents, the committee prepared an address to the king, and letters to Clarendon, Saltonstall, Ashurst, and Temple, asking them to represent the colony before the king. The address to the king was short and manly in tone. It asked that the agents be protected, the charter confirmed, and that authority be given the colony to deal with the Quakers "lest under present conditions they cause some calamity."[45]

That the entire business was looked upon by the agents as well as by the committee to be a delicate and even dangerous undertaking, is evidenced by many things. Careful arrangements were made to keep absolutely secret the communications from the agents to the colony.[46] The agents appealed repeatedly for a guarantee against loss in their estates should "any change come upon the country." They

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[44] Mass. Rec., IV (ii), 37.
[45] Hutch. Coll., 356.
[46] They were to use the most "secret and faithful conveyance, directed under cover to V. to be by him delivered to S. with advice to him to acquaint the Governor." Hutch. Coll., 361.

were so sensible of the shortcomings of the colonists in loyalty, or were so filled with distrust of the king, that they feared for their personal safety. There was an utter lack of that buoyancy which would indicate a belief that they could vindicate themselves. More than once the agents helplessly asked the committee whether they considered the voyage necessary. When arrangements were completed, they delayed the starting with various excuses. The ship was held five days because Norton was suddenly taken ill, all hope of the agents' departure was given up, and the secretary of the court was ordered to dispose of the money and provisions collected for their use. But finally, the "Lord so strengthened and encouraged the heart of the Rev. Mr. Norton that he expressed himself ready and willing to go that day."[47] Even after they had arrived in England, reports were current in the colony that Norton had been imprisoned in the tower and that Bradstreet had been driven from court by the influence of the Quakers.[48] These reports and the misgivings which prompted them, go to show how much the people of Massachusetts misjudged the intentions of the English government at this time, and how far a more candid correspondence between colony and mother country might have gone toward correcting the many false impressions concerning each other. For, when the agents reached London in the latter part of March, they were well received, given several hearings before the council, "had fair promises of a full grant to their whole desire in their country's behalf," and were permitted, within four months, to return home with a letter confirming their charter. And if "their writing which they drew," stating the desires of the colony, remained "at last unsigned," it may be attributed to the fact that they had no authority to answer definitely or bind the colony to any conditions.[49]

When the agents from Massachusetts reached London, to-

[47] Hutch. Coll., 370; Hull, Diary, 1662, Jan. 7.
[48] Sewel, II, 279, 280.
[49] Hull, who accompanied the agents says they reached London March 24, 1662, and were home again by Sept. 3.

ward the latter part of March, 1862, they found already there, representatives from all of the king's other American dependencies. Berkeley, about to assume again the governorship of Virginia, had presented for the council's consideration the laws passed by the Virginia assembly in the previous year and was preparing to submit his own recommendations for the improvement of the colony. The acts of Maryland had also been presented for confirmation and Lord Baltimore was consulting with Berkeley, before the latter's departure, regarding the proper policy to be pursued with reference to the over production of tobacco in the two colonies.[80] The other New England colonies had also brought their affairs before the council for plantations. In January, 1661, Dr. Clarke, already in London as the representative of Rhode Island, had received a renewal of his commission with instructions to present an address to the king and bring the affairs of Rhode Island to His Majestie's attention. Clarke had acted at once, and the submission of his colony to the new government in England, together with her humble request for recognition and protection in the form of a new charter of incorporation, had been before the council for plantations more than a year before the arrival of Bradstreet and Norton from Boston.[81] Both Connecticut and Plymouth also took action to secure favor at the court of the mother country. From the former colony, the governor, Winthrop, was sent as a special agent to make request for a new charter of privileges, and had reached London about a month in advance of the agents from Massachusetts. Thus again as in proclaiming the king, Massachusetts was behindhand.[82] New Haven alone had refused or failed to open any communication with England.

Under these circumstances, the affairs of Massachusetts and New Haven were not likely to receive favorable consideration at the hands of the English ministers. Already,

[80] Colonial Papers, 1661, April 17, Sept. 12; 1662, March 23, April 1, May 14, July (?).
[81] Ib., 1661, Jan. 29, Feb. 5; R. I. Rec., I, 433.
[82] Colonial Papers, 1662, Feb. 12; Conn. Rec., I, 369.

on February 15, 1662, more than a month prior to the arrival in London of Bradstreet and Norton, the New England business was again called up when the sub-committee of the council for plantations reported on the petitions from Mason and Godfrey regarding the usurpation of Massachusetts in New Hampshire and Maine. This report was of a decidedly serious character. It stated that since 1652, Massachusetts had usurped the government of both of these provinces, and that "they (of Massachusetts) have declared (their government) to be independent of the Crown of England." They have issued writs in their own name, coined money with their own stamp, exercised arbitrary power, and allowed no appeals to England. "Some have publicly affirmed they would oppose any Governor sent by the King and rather than submit any appeal to England would sell their colony to the King of Spain."[33] This report aroused Clarendon and the king to action. Ten days later an order in council was issued directing that "all persons who have any commissions from those in New England interested in the affairs of that plantation, or who can give any account in reference to the king's service and the benefit of those parts to attend the board on the 6th March, and particularly that Colonel Thomas Temple and Mr. Winthrop and such as they shall advise be summoned to attend."[34]

It does not appear from the papers in the English State Paper Office, what the particular business was which this meeting of the council for plantations was intended to discuss, or whether the meeting was held at all. But it seems most likely that it was planned to bring to an issue the conduct of Massachusetts and to take some definite steps to enforce the king's authority there. When, however, in the midst of these proceedings, Bradstreet and Norton arrived and presented their credentials, it was found that they had

[33] Colonial Papers, 1662, Feb. 15. The report is printed in Belknap, History of New Hamp., Farmer's Edition, I, 436. The petitions had been referred to the council for plantations in the previous November.

[34] Ib., 1662, Feb. 26.

not sufficient power to act in the name of the colony which they represented. In this event two courses of action were open to Clarendon. He might have settled the matter at once on the rather one-sided evidence in possession of the council, by issuing orders requiring Massachusetts to withdraw from New Hampshire and Maine and bring her laws and government into conformity with the English model, or he could have postponed the matter until better information should be obtained, taking in the meantime requisite steps to secure such reports as could be made the basis of final action. What he actually did was in the nature of a compromise between these two courses. Soon after the agents had received a hearing before the council and it was found that their instructions were insufficient, they were allowed to return home bearing a letter to the colony, in the king's name. In this letter, destined to become the basis of many future negotiations, the king confirmed the Massachusetts charter but commanded the colony to bring its civil and ecclesiastical government into conformity with that of England.[88] No mention was made, however, of the usurpation in New Hampshire and Maine. This and other important questions were reserved for further investigation. And the manner in which this was to be carried on appears from a declaration made by Clarendon before the council about two months later in which he mentions his intention of sending commissioners to New England to look into their affairs. If this plan had been carried out promptly and vigorously, it might have been attended with success. But delay was inevitable at the English court during this period. As the letter and the recommendations of the council for plantations drawn up in the previous year had been put off, neglected, and forgotten, so now the resolution to send out commissioners was postponed for nearly two years before being brought to a conclusion. And in the meantime, no steps whatever were taken to see that the commands of the king sent back by the agents to Massachusetts were being complied with.

[88] See below, p. 51.

It was while affairs were at this stage, when the serious problem of controlling Massachusetts under her liberal charter was fully confronting the English ministers, that charters were granted to two more New England colonies, conferring even more independent powers than that of Massachusetts. As already stated, Connecticut and Rhode Island immediately after the king had been proclaimed had resolved to seek new grants. The patents under which they at this time existed had been issued by the authority of parliament after the downfall of Charles I, and the colonists naturally felt insecure in the enjoyment of their privileges, especially as there were a number of rival claims to portions of the territory over which they exercised jurisdiction, based on patents granted by former kings.[86] Accordingly, Rhode Island had instructed Clarke to press for a new charter soon after the king had returned to England and a similar service for Connecticut was one of the chief objects of Winthrop's mission to London in the following year. The request of Connecticut was first to find favor at court. Winthrop had influential friends in England so that his petition asking for a charter was well received. It was presented early in February, 1662, and on the 28th a warrant was issued ordering the charter to be drawn; this was approved on April 14, and the royal grant passed the seals on the 23d of the same month.[87] The Rhode Island grant progressed much more slowly. Clarke had petitioned for a charter as early as February, 1661, but no steps seem to have been taken toward granting his request until after the Connecticut charter had been agreed upon. Then Clarke objected to the boundary which Connecticut had received and some delay was occasioned while this was being rectified, and the Rhode Island charter did not pass the seals until July 8, 1663.[88]

These charters, alike in almost every particular, granted

[86] The most important was that held by the Duke of Hamilton. See below, p. 103.

[87] Colonial Papers, 1662, Feb. 12, April 14, 23.

[88] Ib., 1661, Jan. 29, Feb. 5; 1663, April 7, June (?), July 8.

to the colonists an extraordinary degree of independence. There was no reservation of authority in the hands of the English government, other than that implied in the requirement of allegiance to the king. The colonies were placed in precisely that position relative to the mother country, which Maryland, or later, New York, would have been in, if the proprietors had taken up their residence in their respective provinces, and in which Massachusetts was actually placed after the governor and company had removed to the colony in 1630. That is to say, there was no provision for a direct and established means of official communication between the dependency and the sovereign. To determine whether or not the laws of England, including those expressed in the charter itself, were being complied with, extraordinary means were necessary, such as sending commissioners to investigate, or requiring the presence of an agent in England. Both of these methods were unsatisfactory. Moreover, the charters were granted at the very time that Clarendon was learning how difficult it was to control Massachusetts under a similarly comprehensive charter, and when he was attempting to enforce a commercial policy hostile to the interests of the colonies. Already complaints had begun to arrive at the colonial office as to the disastrous effect of the navigation acts, although the most oppressive portion of these laws was yet to be enacted and the most determined opposition to them had not yet been felt.[59] But by the act of 1660 it was provided that all colonial governors should take an oath to enforce its provisions and make a yearly return to the English customs office of the bonds required from ships trading in colonial ports and carrying enumerated articles. The charters just granted provided no means for supervising the enforcement of these requirements. Should these colonies resist the navigation acts, there was no way of enforcing them without violating, or going beyond, their new charters.

In addition to these administrative defects, the charters, instead of putting an end to the troublesome boundary dis-

[59] See above, p. 15.

putes, between the New England colonies, rather added confusion to these controversies. Between the more settled portions of Rhode Island and Connecticut lay a tract of land, the jurisdiction over which was claimed by both colonies. This was known as the Narragansett country, and the ownership of a considerable portion of the territory was claimed on various grounds by a group of men, chiefly from Massachusetts, under the name of the Atherton Company. With the agents, Winthrop and Clarke, in England, there could be no excuse for ignorance on the part of the ministers as to the situation of this district and the character of the claims to it. This being the case, it appears strange that the claims of Rhode Island should be completely ignored and the jurisdiction granted to Connecticut without consulting Clarke in the matter,[80] unless it was intended to humiliate and weaken Rhode Island. That this is unlikely appears from the fact that so liberal a charter was presently granted to this colony, and that when Clarke protested, the question was opened for argument. The desire of the chief planters in the disputed land, the members of the Atherton Company, to be subject to Connecticut rather than Rhode Island, and their efforts to bring about this end may have had some influence in determining the boundary.[81] But this should not have prevented Clarke being heard on the subject, especially when he had been negotiating for a charter for over a year. Later, when Clarke learned of the unfavorable procedure, the matter was referred to a joint commission which, on April 17, 1663, rendered a decision which handed the Narragansett lands back to Rhode Island and made the Paucatuck River the boundary instead of the Narragansett Bay.[82]

This amicable settlement was not, however, the end of the affair. The agreement contained a clause permitting the

[80] That this was done appears from a letter from Winthrop, dated Sept. 2, 1662, in which he says that he did not even know that Clarke was agent for Rhode Island up to the time his charter was granted. Arnold, Hist. of R. I., I, 379.

[81] They wrote to Winthrop to bring about this result, and sent one John Scott, as their agent. See following paragraph.

[82] Printed in R. I. Rec., I, 518.

members of the Atherton Company holding land in the disputed region, "to choose to which of those Colonies they [would] belong," a statement practically invalidating the decision in favor of Rhode Island inasmuch as it was well known that these men preferred Connecticut for their protector. And, as if in anticipation of this loophole, the members of the Atherton Company had already sent a petition to the king, complaining of the Rhode Island interference and asking for a letter authorizing Connecticut or Massachusetts to give them protection. This was quickly answered by a circular letter from the king to the governors of New England, instructing them to protect the petitioners in their right and assist them against any unjust molestation or oppression.[43] Taken together, this letter and the last clause of the agreement of the arbiters would seem to indicate that there was some intention to defeat Rhode Island in obtaining possession of the land which apparently had been awarded her. If so, this was entirely removed a few weeks later when the Rhode Island charter passed the seals with the provision that the western boundary of that colony should be on the Paucatuck river, as provided for in the agreement of April 17. Nevertheless, these contradictory grants so obscured the intentions of the home government that its real desire regarding the limits of the colonies remained in doubt and they were left to fight out the difference and settle their boundaries as best they might. Each colony asserted its claim to the disputed land with increasing violence, until by an extraordinary exercise of royal power violating these same charters, the question was taken out of their hands and referred back to England for settlement.[44]

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[43] Colonial Papers, 1663, June (?), June 21. This letter was obtained by a bribe to the value of 60 pounds expended by Scott, the agent of the Atherton Company. See a letter from him to Captain Hutchinson. Arnold, History of Rhode Island, I, 383.

[44] The king afterward claimed that when the Connecticut charter was granted, "several debates arose therefrom before our Chancellor of England and before persons appointed by him to accommodate the same," and that they could make "noe clear determination of the right," and that as commissioners were about to be sent to

Various theories have been advanced to explain the action of the English government in making these liberal grants. Both Connecticut and Rhode Island had been very prompt and loyal in proclaiming the king, and both were fortunate in the agents which represented them at court. Winthrop especially was a man of experience and great talent, who had travelled extensively on the continent and was familiar with the ways of courtiers and possessed the graces necessary to win favor among them. The story of his presenting the king with a ring which his father had received from Charles I, may, or may not, have any foundation.[88] It is certain that he had gained influential friends by his interest in scientific investigations, and that the assistance of the powerful Lord Say and Sele, and the Earl of Manchester was elicited in behalf of the colony. But historians generally have sought for some other explanation. They have found it in the hypothesis, that the granting of these charters was part of a definite policy entertained by Clarendon which had for its object the disruption of the New England confederacy in order to render Massachusetts helpless and bring about her submission to the crown. He hoped, it is claimed, by the annexation of New Haven and the Narragansett land to Connecticut, to make this colony amenable to royal dictation and arouse the jealousy of her northern neighbor. Rhode Island was favored by a liberal grant, and Plymouth was offered a similar advantage, and so it appeared that Massachusetts would be left single handed.[89]

New England, the charters were passed upon the promise of Winthrop, that "we should find the same submission to any alteration at that time, and upon such a visitation, as if no Charter were then passed to them." New York Documents, III, 55.

[88] Mather, Magnalia, Book II, ch. XI, par 5; Trumbull, History of Connecticut, I, 248.

[89] Mr. J. A. Doyle asserts that "Connecticut was but the instrument of the home government," but admits that there is no documentary evidence of it. He thinks it impossible that Clarendon did not know and approve of what was going on between Connecticut and New Haven. Doyle, Puritan Colonies, II, 160. Palfrey, New Eng., II, 542, adopts the same view, for without it he cannot see why "a wary and arbitrary minister who in the new zeal of office was gathering into his master's hands all the power that could be

This theory proceeds upon the assumption that Clarendon, while deeply interested in reducing Massachusetts to conformity with English laws, was timid about offering any offense to that colony until he had removed all danger of an uprising there against the king's authority. Some evidence of his alarm over the growing strength and independent spirit of Massachusetts is found in a memorandum relating ot the settlement of New England, supposed to have been written by him two years later. Certain facts, however, make it extremely doubtful whether this paper was the work of Clarendon; some portions of it could not have been written while he was minister.[87] And many other circumstances appear to question the likelihood that Clarendon mapped out any such definite policy in regard to the New England charters as that ascribed to him. Thus, while his aim might at first seem plausible with regard to Connecticut, it loses its significance in the case of Rhode Island. This colony was already sufficiently ill-disposed toward Massachusetts, on religious and political grounds, to prevent any union or understanding with that colony. Moreover, this colony had already been forced, by the oppression of the others, into a position of complete dependence on and attachment to the mother country, so that no sop in the way of favors was needed to gain her support in a struggle with the other New England colonies. Yet Rhode Island received in her charter, privileges greater even than Connecticut. If this charter was granted to gain the good-will of the colony and separate it from the other New England communities, as has been averred by historians, it was a useless act to bring about a condition which already existed; if this was Clarendon's intention, he was deceived and was

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seized was brought to make a formal grant of what almost amounted to colonial independence." As to the annexation of New Haven to Connecticut, he is not certain "whether Winthrop easily consented or Lord Clarendon absolutely insisted." Yet Winthrop was made to promise not "to meddle with any towne or plantation that was settled under any government" and that he would afterward submit to any alteration of the charter. Mass. Hist. Soc. Coll., 3 s., II, 9. Below, p. 96.

[87] See below, p. 76.

needlessly raising up a constitutional barrier in one colony to that policy which he hoped to enforce in another. If his aim of enforcing the navigation law in New England and of bringing that community into its proper state of dependence on the sovereign was to be carried out, he must expect in the near future to amend or violate the laws he was enacting. Not less inconsistent was the case with Connecticut. For, long before the dispute with Massachusetts had been settled, nearly half of Connecticut was again granted away to the Duke of York, an act which, had it been carried out, would have defeated the supposed aims of Clarendon by driving the Connecticut settlements into closer union with Massachusetts. Finally, it seems altogether unlikely that a monarch so firmly seated on the throne as was Charles II at this time, or a minister so bigoted and self-willed, so devoted to the principles of monarchy and opposed to democratic government as was Clarendon, would adopt such a round-about policy in order to enforce his authority in a colony like Massachusetts.

The charters of Connecticut and Rhode Island have all the appearance of being passed with the same reckless prodigality that had permitted the setting up of an almost independent sovereignty in Maryland, and was soon to characterize a similar policy in Carolina and New York.[88] In fact, the charter for Carolina was being prepared at this very time and was passed just ahead of that for Rhode Island. It granted a vastly larger territory than the New England patents combined, and complied in equal measure with the wishes of the beneficiaries in respect to religious and civil autonomy. Charles II's liberality to those who had gained his favor is well known. That Winthrop stood in this relation is equally certain.[89] He had the assistance of Sir Robert

[88] They were "carelessly granted by a very careless monarch." McPherson, Annals.

[89] The king afterwards stated that the charter was passed, "rather upon the good opinion and confidence we had in Mr. Winthrop than that the differences were composed," and also on the promise of Winthrop that he would submit to any change later on. New York Documents, III, 55.

Boyle, who was personally known to Clarendon.[70] Lord Say and Sele himself makes the statement that he joined with the Earl of Manchester "that their godly friends in New England" might be given their liberties.[71] Both of these men stood high in the king's favor, Lord Say being the keeper of the privy seal, and Manchester holding the post of chamberlain. Winthrop is known to have communicated directly with these courtiers. He carried with him a draft of the charter desired by the colony in which even the boundaries were specified.[72] The king at this time was exerting himself for religious toleration. What more is needed to explain the New England grants? Winthrop by his own exertions and the aid of his influential friends secured the adoption, almost unchanged, of the outline draft which he presented. Clarke, with equal abilities in diplomacy, but with fewer friends at court, was kept waiting more than two years.

The new charters were received by the people of Connecticut and Rhode Island with transports of joy, and letters offering their heartfelt thanks were at once forwarded to the king and his minister. On their return, the agents who had procured these liberal grants were hailed as the benefactors of their fellow-countrymen.[73] Very different, however, was the reception given to the agents from Massachusetts on their return to Boston. As already stated, Bradstreet and Norton, contrary to their own expectations and that of their fellow colonists, had been well received in England and their petitions listened to with respect by the king. It was soon found, however, that their powers were not such as would enable them to make any settlement in the name of the colony which they represented, or bind themselves to see that the king's orders were executed. Accordingly, they were soon allowed to depart, bearing a letter from the king, expressing his commands direct to the colony.

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[70] Danforth Papers, Mass. Hist. Soc. Coll., 2 s., VIII, 49.
[71] Letter to Winthrop, Trumbull, I, Appendix, 515.
[72] Conn. Rec., I, 579.
[73] Ib., 390; R. I. Rec., I, 509.

This letter was very shrewdly drawn and became one of the most important state papers in the whole controversy between Massachusetts and the mother country. It begins by speaking of the petition brought by the agents as "very acceptable." The king is satisfied that the people mean to be loyal and dutious and he, therefore, "confirms the patent and charter granted by his Royal father, which his Majesty is ready to renew whenever they desire it, that they shall enjoy all their privileges and liberties." Any past deviation from loyalty he attributes not to "evil intentions," but to the "iniquity of that time," and he, therefore, pardons all who have transgressed against him during the late troubles except such as may have been attainted by parliament. But if the people are at heart loyal, as the letter has thus far graciously assumed, it is taken for granted that they will not object to a few reasonable demands; consequently, the letter goes on to direct that all laws "derogatory to the King's Government" must be annulled, the proper oaths of allegiance taken, and justice administered in the king's name. As the object of their charter was "liberty of conscience," this must be granted also to those who desire to use the Book of Common Prayer, and all "freeholders of competent estates not vicious in conversation and orthodox in religion" must be allowed to share in the civil government. The former order about the Quakers is reversed, and it is not to be understood that the liberty of conscience above referred to is to be extended to them. On the contrary, it having been found necessary by advice of parliament "to make a sharp law against them, we are well contended that you do the like there." The colonists may also if they find convenient, reduce the number of assistants required by the charter to ten. Finally the letter concludes with the instruction that it is to be published at the next court with the announcemen that the "king takes the plantation into his protection and is ready to receive any application or address from his subjects there."[74]

[74] Hutch. Coll., 377.

This communication was in every way politic and diplomatic as well as just.[75] Starting with the assumption that the people were really loyal, there is no hesitancy in confirming their charter and the privileges which it guarantees. The king is willing to make it the basis of his demands. By this liberal concession at the beginning, the odium for refusing to comply with the requirements following, which do not violate the charter but which are necessary to bring the colony as a whole into a state of loyal dependence upon and conformity with the mother country, is thrown directly upon the colonists themselves. If, after having their charter confirmed, they should be unwilling to administer justice in the king's name and grant recognition to the religion established by the laws of England, they would prove themselves unworthy of the confidence placed in them.

But this was not the view taken in regard to the letter by the people of Massachusetts. According to their plans, the agents had been sent to England merely to obtain privileges and not to receive commands. Their object was to have the charter confirmed and obtain liberty to take action against the Quakers. On all other matters they were merely to make representations and "feel the pulse" of the king and his ministers, and if questioned and pressed for answers, to plead lack of power. But this diplomatic bid for delay had not succeeded. In the arts of diplomacy, Bradstreet and Norton were far inferior to Winthrop and Clarke. While they succeeded in having their requests granted, they were not able to prevent the counter demands being made.[76] Hence the letter aroused the greatest indignation in Massachusetts. The strict magisterial party looked upon the agents as traitors. Norton in particular, perhaps because he had already taken a stand in favor of concession, was regarded as having "laid the foundation of ruin to all our

[75] Doyle says of it: "Judged by modern political ideas these injunctions were fair and moderate. There was no infringement of the privileges of the charter, no interference with the course of justice, no assertion of any right to tax." Puritan Colonies, II, 178.

[76] "Their writing remained at last unsigned." Hull, Diary.

liberties."[77] The royal commands were not obeyed. When the general court met in October, the letter was read and, after some discussion, ordered to be printed. The liberty to exclude the Quakers was at once made use of and the former laws against them were reissued. An order was also passed requiring that henceforth all public writs and documents be drawn in the king's name. Further than this the magistrates refused to go. On the contrary, all persons were ordered to suspend "all manner of actings in relation thereunto untill the next general court."[78] And while this course of action, or inaction, was not satisfactory to all, the opposition to it was disregarded. Norton, who answered the censure directed against him with the bold assertion that "if they complied not with the king's letter, the blood that would be spilt would lie at their door," passed out of notice and soon after died, it was said, from disappointment and chagrin.[79] Some of the merchant class who had been rising into prominence but had thus far been excluded from political rights, came forward and "boldly offered their votes to the freemen when they were together for the nomination of magistrates."[80] There was, however, no widening of the franchise in compliance with the order from England. On the contrary, as time passed without evidence of further action by the English government, the spirit of the magistrates seems to have grown stronger and their resistance became more determined. The next general court, which met in May, 1663, instead of taking action on the king's letter, after "long and serious debate of what is necessary to be done" referred the matter to a committee "to draw up what they shall judg meete to be our duty to doe in reference thereunto" and report it to the following session in October, to be further debated and considered.[81] Thus was an entire year spent in "debating and considering," with the outcome that the committee made no report and no further action was taken on the subject.

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[77] Mather, Magnalia, Book, III, I, 297.
[78] Mass. Rec., IV (ii), 58, 59.
[79] Hutch. Hist., I, 204, note.
[80] Hull, Diary, 1663, March 9.
[81] Mass. Rec., IV (ii), 73.

About this time, however, Governor Endicott, in the name of the general court wrote to the king acknowledging the receipt of his letter. He thanks the king for confirming the charter. He professes to know of no law derogatory to the king's government, nor is he aware that any have "as yet appeared among us to desire" the Book of Common Prayer. In reference to elections, he states that it has always been the custom "that men of wisdom, integrity, and virtue be chosen to places of trust," and that to secure this end it is necessary that the electors be orthodox in religion, and not vicious in conversation; that all those who have proved themselves to be such, "in their places where they live, have from time to time been admitted in our elections." He assured the king that if anything "yet remains to be acted by us respecting the premises, it is under consideration among us to that end."[82] This consideration did not, however, result in carrying out the requirements of the king's letter.

On the contrary, when the general court met again in October, an act was passed apparently in direct opposition to the king's directions. This act recited that there were many enemies of the government who would not yield obedience to authority civil or ecclesiastical, but combined in some towns to try to control elections, and hence ordered that "all persons, Quakers or others, which refuse to attend upon the public worship of God *established here,* that all such persons, whether freemen or others, acting as aforesaid shall and hereby are made incapable of voting in all civil assemblies" during their continuance in such ways and until certificate be given of their reformation.[83] The Book of Common Prayer was not admitted in the established religion in Massachusetts, and should a person withdraw himself to worship in the Episcopalian fashion, he lost his vote, however competent his estate for the enjoyment of the franchise. So it remained for years; long afterward when Randolph came out as the king's collector and representative

[82] Endicott to Secy. Morrice, undated, Danforth Papers, Mass. Hist. Soc. Coll., 2 s., VIII, 47.
[83] Mass. Rec. IV (ii), 88, Oct., 1663.

in New England, it was with the greatest difficulty that he could secure a building in which to hold the services of the English church.

Meanwhile, it is noteworthy that the English government was doing nothing to enforce the order sent to Massachusetts. In September, 1662, about three months after the letter had been dispatched, Clarendon had, indeed, declared to the council for plantations that it was the king's intention to send commissioners to New England. It might be expected that this plan would have been followed up with vigor when news reached the court of the colonies' dilatory and disobedient action. Such information seems to have been at hand in the following April, when, on hearing papers from New England read before the council, the king renewed the declaration that commissioners would be sent out to reconcile disputes between the colonies and ascertain how they were complying with their charters.[44] This was nearly a year after the letter containing the orders from the English government had been sent out. Yet another full year was to elapse before the plan here proposed to see that they were enforced, was carried into execution. This delay is hardly in conformity with the supposition that the transactions with Connecticut and Rhode Island in 1662 were conducted with a view to preparing the way for the settlement of Massachusetts. If the idea was to isolate Massachusetts by disrupting the confederacy, that end had already been accomplished. That the commissioners were not dispatched in 1663 to enforce the king's orders to Massachusetts, and that when they were finally sent, as will appear later, the immediate and dominant object was not a settlement with Massachusetts but the conquest of New Netherland, is further confirmation of the belief that, in his dealing with Connecticut and Rhode Island, Clarendon had in mind no reference to the affairs of Massachusetts, nor, in fact, any well-defined policy other than his well-known desire to further colonial development.

[44] Colonial Papers, 1662, Sept. 25; 1663, April 10.

CHAPTER III.

The Founding of Carolina and the Conquest of New Netherland.

At the same time that the New England charters were preparing, great interest was being manifested by English statesmen in other colonial projects. In 1663, a few months prior to the passage of the Rhode Island grant, the extensive region south of Virginia, extending from the boundary of that colony to the limits of the Spanish possessions in Florida, was erected into a province and bestowed upon eight of the king's friends and servants. Just a year later a charter was drawn up conferring on the Duke of York, the king's brother, the territory between Delaware Bay and the Connecticut River, together with Long Island and that portion of Maine eastward from the province of Ferdinando Gorges and extending to the St. Croix river. By these extensive grants of land the whole Atlantic seaboard in America from the French territory in the north to that of the Spanish in the south, not already occupied by the English, was definitely appropriated by the English government and opened for colonization by the English nation. In both of these grants Clarendon, the Lord Chancellor, was directly concerned. When the charter for New York was being prepared, he purchased Long Island from the Earl of Sterling and presented it to his son-in-law, the Duke of York, as the nucleus for his new province, while in the charter for Carolina his name appears at the head of the list of proprietors. Both charters also exhibit the same liberality, not to say prodigality, in respect to governmental concessions as well as territorial limits, as appears in the corporate charters for Connecticut and Rhode Island. It appears also that, like the New England charters, these grants were

drawn in accordance with the wishes and the varying interests of their respective beneficiaries. The proprietors of Carolina, desiring to participate in the profits that were beginning to be realized from colonial trade, and particularly from the nearby West Indian plantations, in order to attract a sufficient number of planters to their territory to make the venture a profitable one, had placed in their patent the guarantee that the colonists should be consulted in the enacting of laws and that there should be complete freedom as regards religion. The Duke of York, on the other hand, both because he would be called upon to rule over a considerable foreign population, already settled in his province, and because he was by nature opposed to these popular methods of government, desired neither of these provisions, and they are consequently not to be found in his charter. In fact, there is nothing in either of the documents by which these enormous tracts of land were granted away, to indicate the existence of any new ideas or principles in the disposition of colonial territory consonant with change of policy, or the beginning of a policy, looking toward the more systematic and centralized administration of the colonies. The whim of the monarch or the favor of the courtier is as influential as ever.

The model for the charter of Carolina is to be found in the grants to Sir Robert Heath of the province of "Carolana" in 1629, and to Lord Baltimore of the province of Maryland in 1632, the only difference being that the land is to be held in free and common socage instead of by military tenure in knight's fee. The grantees are made absolute proprietors saving only allegiance to and sovereign dominion in the king. The province is to be held as the manor of East Greenwich in the county of Kent, with all the rights and powers that the bishops of Durham have ever enjoyed. And, as in the Maryland charter, the proprietors are given authority practically to ignore the rights of the planters in making laws by the provision extending to them the power to make ordinances with all the force of law. The recipients of these extensive

rights over a territory of unknown limit, were all friends of the restored king, who had from time to time rendered him personal service. Clarendon and Lord John Berkeley had shared his exile; the Duke of Albemarle, General George Monk, had done much to bring about the restoration; two others had fought in the civil war on the royal side, Carteret, having held the Island of Jersey against the parliamentary forces, was the last to surrender, and Colleton, after losing near 100,000 pounds in the king's service, went to Barbadoes where he continued to maintain the royal interests; Ashley, who was recommended to the king by Monk, had acquired the position of Secretary of State, and by virtue of his high political talents was soon, as the Earl of Shaftesbury, to become the leading minister; finally, the Earl of Craven, a soldier of the civil war, had been promoted in the peerage by Charles II, after his return to England, and Sir William Berkeley, having refused to serve as governor of Virginia during the commonwealth, was restored to that position on its downfall in 1660.

The interest of these statesmen and courtiers in Carolina was mainly, if not solely, commercial.[1] They appear to have been negotiating for the grant several years before it was finally procured,[2] and for a number of years afterward they acted merely as large land agents controlling a territory to be disposed of to planters on the best terms that could be obtained. The tobacco and sugar plantations in Virginia and the West India Islands were becoming at this time exceedingly profitable. The increasing rigidity of the navigation acts furnishes evidence of this fact, as well as of the determination of the English statesmen to secure for themselves and for their merchants and shippers the benefits arising therefrom. More or less determined efforts were

[1] Proposals, or Advertisement, for the settlement of Carolina. Also, Concessions, etc. North Carolina Colonial Records, I, 43, 75-93. McCrady states that South Carolina was "planted to assert the dominion of Great Britain against that of Spain in disputed territory." South Car. under Pro. Govt., p. 4. But he cites no documentary evidence of such an idea existing at this time.

[2] Letter from the Proprietors to Berkeley, N. Car. Rec., I, 52.

being made to increase both the quantity and the variety of the commodities which the colonies should produce. It was desired and believed that the several colonies might be made to furnish a greater number of the staple articles which England had been accustomed to secure from foreign markets, and thus the customs duties could be increased and the profits of the English merchants and ship owners greatly enhanced.[3] With this end in view, Maryland and Virginia were urged, tobacco having become a drug on the market, to turn their attention to other staples, such as silk, hemp, flax, potash, and pitch. It was thought, by the ministers in England, that, by a little care and experimenting, in a few years great profit and revenue could be made on these articles. When Berkeley was recommissioned governor of Virginia, in 1662, his instructions authorized him to give special attention to these experiments and promised him a ship load of tobacco when he sent over the first load of other commodities. As an additional incentive in this direction these new products were made free of duty in England for a period of five years.[4] The belief that these commodities could be produced with profit in America was one of the chief reasons why proprietors of Carolina were so deeply interested in that province. In their proposals, or advertisement, issued in 1663, to attract the attention of prospective colonists, they enumerate, in addition to the staples, tobacco and sugar, wine, oil, silk, ginger, cotton, and indigo as articles which may be grown or produced in the new plantation.[5]

The new York charter, though somewhat differently worded and much less prolix, conferred upon the proprietor even more absolute powers and independent sovereignty than that for Carolina. The form of tenure was the same, but the Duke of York was not required to obtain the consent of the colonists in legislation nor was he bound to grant any toleration in religion. And, while the idea of profit was

[3] Colonial Papers, 1661, Feb. 18; 1662, July (?), Sept. 12.
[4] Ib., 1662, Sept. 12; 1664, Nov. 25.
[5] N. Car. Rec., I. 43, 46.

by no means foreign to the minds of those concerned in the province, the motives leading up to this extraordinary grant were quite different from those assigned for the charter of Carolina and the principles involved vastly more far-reaching. The chief portion of the territory granted to the Duke of York had already been peacefully occupied for upward of half a century by the Dutch, whose title had been recognized in England by both king and parliament. Their claim was based on discovery and occupation. Against this the English could bring forward only a vague claim of discovery, based on the supposed exploration of the whole Atlantic coast as far south as the region of the Chesapeake by the Cabots. This claim had, however, been repeatedly declared insufficient. Queen Elizabeth had first announced the principle that "prescription without possession" of unoccupied territory does not give a good title. This principle was acknowledged by James I in 1606, when he opened the coast from Acadia to Cape Fear to colonization, by excepting any land actually occupied by any Christian people. It was subsequent to this that the Dutch explored and began the settlement of the Hudson Valley. Their right was again recognized by James I, in the Plymouth charter of 1620 when he again excepted from the land granted, any already occupied. This was confirmed the following year by parliament in the assertion that "occupancy confers a good title by law of nations and nature."[6] But precedents such as these had little weight with Charles II or his ministers. Having decided after several months consideration that the possession of the Dutch territory was necessary or desirable, the title by prescription was revived, the Dutch were denounced as intruders, and the region quietly granted to the king's brother. In the charter the Dutch were not mentioned. The territory was granted away as though absolutely unoccupied.[7]

The desire on the part of the English statesmen to possess

[6] Brodhead, History of New York, II, 10.

[7] Brodhead speaks of the Charter of New York as, "the most impudent ever recorded in the colonial archives of England."

New Netherland was by no means an unreasonable one. Lying as it did between the Puritan colonies on the north and Maryland and Virginia on the south, this province occupied a position of the greatest importance in the administration of the English colonies. Communication between the two portions of the English dominion was rendered difficult if not impossible, and if the ministers looked forward to a time when some sort of centralized administration of the colonies should become desirable, the obstacles presented by the Dutch possession of this middle territory were insuperable. There is evidence that this idea of uniting the colonies, or at least of bringing their governments into greater harmony with each other, was vaguely entertained at the time of the appointment of the council for plantations in 1660; and later in the reign a plan to realize it was actually proposed and urged upon the ministers by Edward Randolph.[1] For the present, however, the several charters granted from 1662 to 1664, would seem to indicate that it had been abandoned or forgotten. There is no evidence that it had any weight in bringing about the decision to seize New Netherland. Other motives, however, were not wanting. New Netherland was regarded by the king as a "constant receptacle and sanctuary for all discontented, mutinous, or seditious persons" flying from justice or running away to escape debts in the neighboring English colonies. The business of the Dutch was said to be to oppress their neighbors and "to engrosse the whole trade to themselves by how indirect, unlawfull, or foule means soever" as the massacre at Amboyna in a time of peace would go to prove. Therefore, "'tis high time to put them out of a capacitie of doing the same mischiefe here."[2] In other words, it was commercial rivalry that induced the attack.

The relations between the Dutch and English plantations in New England, although not precisely such as the king's words would indicate, had not been entirely peaceable and

[1] See above, p. 17.
[2] Instructions for the Royal Commissioners, New York Documents, III, 52.

satisfactory. From the beginning, the Dutch had made indefinite claims to the land along the coast as far as the Connecticut river.[10] The English claim was equally indefinite. The Connecticut and New Haven settlers had appropriated lands not already occupied and pushed farther and farther to the westward until their outposts came into actual contact with those of the Dutch. As early as 1633, the latter had obtained a deed from the Indians for lands around Hartford, and a number of them had settled there.[11] In addition to these mutual contests for the land between the Connecticut and the Hudson, other disputes had arisen. Fugitives from justice and debtors from one colony were sometimes given refuge in the other; selling arms and ammunition to the Indians was mutually charged; and the Dutch governor had seized a vessel in the harbor of New Haven for alleged violation of the Dutch trading laws.[12] In 1650, soon after Stuyvesant came out as governor of New Netherland, these issues had all been settled by a treaty made at Hartford between Stuyvesant and the commissioners of the united colonies covering all the points in dispute. Criminals were to be delivered up and the colonies were to live in friendly union. Regarding boundaries it was agreed that the posession of the two nations should be separated by a line starting from the "west side of Greenwich Bay, being about four miles from Stamford, and so to run a northerly line twenty miles up into the country, and after as it should be agreed by the two governments of the Dutch and of New Haven, provided this said line come not within ten miles of Hudson River." The Dutch were to keep all lands actually occupied at Hartford, but all the remainder was to belong to the English. Long Island was divided between the claimants by a line from the "westernmost part of Oyster Bay" due south to the sea.[13]

This settlement of the local difficulties proved fairly satis-

[10] Hazard, State Papers, II, 97, 132, 154.
[11] Ib., 54, 58.
[12] New Haven Records, I. 508, 511, 515.
[13] Hazard, II, 218; N. Y. Doc., II, 228.

factory for a number of years. While the mother countries were engaged in the commercial war undertaken by Cromwell, the colonies were on the verge of hostilities. But on the return of peace, the States General of Holland ratified the colonial treaty, and, while this sanction was never given by the English government, it was regarded as binding by the colonies. This condition was terminated in 1662 when the Connecticut charter was granted. According to the terms of this charter, Connecticut was to extend west to the South Sea. Trouble began at once. The government of Connecticut had the charter made known to the Dutch colonists and ordered them not to molest any of the English inhabitants on lands included in its bounds. Stuyvesant at once claimed that the English were attempting to get the towns under Dutch authority to revolt. When he sent commissioners to Hartford to endeavor to have the agreement of 1650 renewed, the authorities of Connecticut answered that it was "a nullity and of no force."[14] In the correspondence which followed there were mutual references to bloodshed if one side or the other persisted in its course. The Dutch held that the king of England must have granted the charter to Connecticut with the same understanding as to territorial limitations as had appeared in earlier charters, that is, on conditions that the lands shall not have been previously occupied. The magistrates of Connecticut, on the other hand, contended that the Dutch really held only a commercial patent, that while they would respect a charter for the territory granted by the states general, and would not interfere with land already actually occupied, they must not be hindered from appropriating lands not occupied and included within the limits specified by their charter.[15] Reports of this controversy reached the council for plantations and aroused the desire of the English ministers to destroy the Dutch colony. Similar complaints came from the Earl of Sterling, proprietor of Long Island, whose petition that

[14] Conn. Rec., I, 387; N. Y. Doc., II, 388.
[15] Conn. Rec., I, 410, 413, 415; N. Y. Doc., II, 224, 380.

the Dutch should be expelled from the western end of that island had been in the hands of the council since 1660.[38]

Meanwhile, the commercial jealousy of the two nations, which after all was the prime reason for the seizure of the Dutch colony, had become more and more prominent. The navigation acts had been aimed especially at the Dutch, to break up their control of the carrying trade and divert this business to the English shippers and merchants. By the enlargement, in 1663, of the original acts, the colonies were brought particularly within the scope of this policy. Not only must all goods entering or leaving colonial ports be carried in ships built and manned by English subjects, but all the more important colonial products must be sent direct to the market offered in England, and the same market was made the sole source of supply for goods of European growth or manufacture. With the Dutch in New Netherland, it was becoming daily more apparent that this provision could not be enforced. When the foreign market offered better profits than the English there was an irresistible temptation to take advantage of it. Either the Dutch ships were permitted to load tobacco and other products surreptitiously in colonial ports, or goods were carried to New Netherland and shipped from there to various European markets. News of this state of affairs was not long in reaching the council for plantations, and was not allowed to pass unnoticed. Soon after the Earl of Sterling had made his complaint about Long Island, information was received that great loss was being sustained by English merchants and shippers by reason of the illicit trade between Virginia and the Dutch plantations, and that two Dutch ships were about to depart for Virginia which, if they were permitted to enter, would inflict a loss of 4000 pounds to the king's customs. In April 1661, the council for plantations reported that New England was becoming a source of supply of wool for the Dutch plantations, receiving in return other articles needed, so that her trade with England had about

[38] Colonial Papers, 1663, Dec. 2; N. Y. Doc., III, 21, 22, 42.

ceased.[17] In 1663, Samuel Maverick sent to the council a petition full of complaints, chiefly regarding New England, which contained a hint that a part of the New England population, having become familiar with the Dutch on account of trade, would not be averse to removing to the Dutch plantations, if their rights were not recognized.[18] A still more alarming report was made in December of this year by the farmers of customs, to the effect that the loss to the king's treasury occasioned by illicit trade with his American colonies would amount to 10,000 pounds per annum. For this loss they demanded redress from the king.[19]

There is no doubt about the connection between these reports and the decision to annex the Dutch territory. The office of receiver general for all the colonies was established in April, 1663, to be under the direction of the lord treasurer or the chancellor. The office was granted to two gentlemen for life and by them at once delegated to George Povey, a member of the council for plantations. He was to supervise the collection of all rents, revenues, and profits, from the king's dominion in America and Africa. While this was being arranged, a circular was drawn up and sent out to all the colonies, stating the provisions of the navigation acts and commanding their enforcement under pain of the king's displeasure.[20] Just prior to the dispatch of this circular, but after the appointment of the receiver general, three former residents in New England had entered a serious complaint of Dutch aggression in Connecticut and Long Island; at the same time the Earl of Sterling's petition was called up. The complainants were at once ordered to draw up a statement setting forth the king's title "to the premises," the "Dutch intrusion" there, their "strength, trade and government" there, and lastly "the meanes to make them acknowledge and submit to His Majestie's Government or by force compell them thereunto or expulse them." They

[17] Colonial Papers, 1661, April 30; N. Y. Doc., III, 43, 44.
[18] Colonial Papers, 1663, Aug. 1, 30.
[19] Ib., 1663, Dec. 7; N. Y. Doc., III, 47.
[20] Colonial Papers, 1662, Oct. 14; 1663, April 9, June 24, Aug. 25.

were ordered to bring in their report within a week.[21] As a result of their investigation, it was found by January, 1664, that the Dutch in Long Island numbered only 1300, and that they might be overcome with men levied in New England, if three ships of war should be sent over. Immediately the Duke of York was directed to prepare the ships and the lieutenant of ordnance was ordered to turn over the necessary arms and ammunition to fit them out.[22] Meanwhile, the Earl of Sterling sold his claim to Long Island to Clarendon. Whether this was done merely to get rid of opposing English claimants, or whether it was intended to furnish the nucleus of a new province and an excuse for proceeding against the Dutch, the island was, at any rate, immediately turned over to Clarendon's son-in-law, the Duke of York, and included in his charter, which passed the seals in March.[23]

It is needless to point out that however necessary to the administration of the English colonies, and however essential to the prosperity of English merchants, the possession of New Netherland may have been, the means taken to secure that territory were thoroughly perfidious and unscrupulous. In September, 1662, Clarendon had ratified a treaty with Holland providing that all acts of aggression on the part of the subjects of either state should be reported to the other, the offenders punished, and just reparation made.[24] Yet when the Dutch government made representations concerning the quarrels between the colonists of the two nations in America and attempted to have the boundary between the provinces there settled, it was constantly put off with delusive and dilatory answers, each one framed in such a manner that it would "serve for a year longer."[25] The English ministers made no claims upon Holland for damages suffered in New England. On the other hand, they endeavored, by pressing insignificant claims arising from other regions, to conceal

[21] Colonial Papers, 1663, July 6; N. Y. Doc., III, 46.
[22] Colonial Papers, 1664, Jan. 29; Feb. (?), 25.
[23] Duer, Life of Sterling, 37; D'Estrades, Letters and Negotiations, II, 57; Colonial Papers, 1664, March 12.
[24] Lister, Life of Clarendon, II, 246.
[25] Ib., III, 276.

their intentions regarding New Netherland. Downing, the English ambassador at the Hague, himself bought up some of these claims for a trifle, magnified them, added others of his own invention, and kept them constantly before the minds of the Dutch statesmen.[26] By this means the Dutch were kept entirely in the dark up to the very moment that the expedition against New Netherland was ready to sail. Even after the expedition was on its way, Charles II continued to assure the Dutch ambassador that he intended to enquire into the matters in dispute "without coming to any Action which might interrupt the good correspondence he had with the States," and that he was surprised that on a single complaint the Dutch "should proceed to make such considerable warlike preparations as they had done in their Ports."[27] Yet for several months prior to this, while the Duke of York had been getting his charter for the lands occupied by the Dutch and fitting out his ships, Downing had been writing to Clarendon that the Dutch did not desire war, were not prepared for it, and if handled right would do almost anything to avoid it. "Those that govern here have neither design nor desire to fall out with His Majestie. On the contrary it is the thing in the world they dread most."[28] Clarendon was equally duplex. In October, more than five months after the Duke's expedition had left England, and in fact more than a month after New Netherland had been seized, he wrote to Downing that he was sorry the Dutch had not been inclined to peace sooner; "for I scarce see time left for such a disquisition as is necessary. They have too insolently provoked the king to such an expense."[29] When the Holland government justly protested that the king of England "had taken New Netherland by force, without so much as saying a word to us," Downing arrogantly replied that the king "did not look upon himself as obliged to give

[26] D'Estrades to Louis XIV, June 5, 1664, Letters, etc., I, 264. D'Estrades was the French ambasador at the Hague.
[27] Ib., July 3, I, 276.
[28] Lister, III, 305, 310, 322. His letters are dated April 18, April 22, May 13.
[29] Ib., 346. Clarendon to Downing, Oct. 28.

any account of what he did in relation thereunto; * * * no more than he should think himself obliged to lett them know his mind, or to have their consent in case he should think fit to proceed against any Dutch that live in the Fenns in England."[20]

Arrangements for "reclaiming" this territory which had never been taken possession of, but which had been quietly occupied by another tenant for over half a century, were pushed on actively, though in secret, during the months of March and April, 1664. Colonel Richard Nicolls, a soldier in the service of the Duke of York, was made the latter's deputy governor for the province about to be conquered, and commander in chief of the expedition raised for that purpose. This consisted of four frigates from the royal navy with about 450 soldiers and a full complement of arms and ammunition aboard. With the expedition, came four commissioners, Nicolls being one, whose business it was, after assisting in the reduction of New Netherland, to examine into the government and administration of the New England colonies. About the middle of May the armament sailed from England, and after a voyage of ten weeks arrived on the coast of Massachusetts in the latter part of July.[21] Requisitions were at once made on the several colonies for assistance against the Dutch plantation. These requests were favorably responded to, Massachusetts alone agreeing to raise two hundred men "for his majesty's service against the Dutch." And although the ready submission of the Dutch rendered the sending of this force unnecessary, the two messengers appointed by the court attended the commission at Long Island with information of the action of the colony.[22] From the other colonies the response was not less prompt. From Plymouth came Captain Willett, and from Connecticut, Governor Winthrop himself, his son Fitz John, and several other magistrates.

[20] Lister, III, 350, Nov. 4.
[21] N. Y. Doc., III, 65.
[22] Ib., 66; Mass. Rec., IV (ii), 119, 125.

New Haven sent Captain Scott with a number of men. These men, especially Winthrop and Willett, were acquainted with the Dutch governor and familiar with conditions at New Netherland and were able to render material assistance in bringing about a submission.

In the early part of August, Nicolls and the other commissioners proceeded to Long Island and were engaged in operations against the Dutch until near the end of the year. The fort at New Amsterdam was wholly unprepared to resist such an armament as the English brought against it. This had often been pointed out to the Dutch West India Company by Governor Stuyvesant. When, in spite of the secrecy employed, he got wind of the approach of the English expedition he renewed his demands for assistance. It was not, however, until June 1664, that the West India Company, becoming suspicious of the activity in English ports, requested aid both of the city of Amsterdam and the States General. Amsterdam promised help, but the States General, not being then on good terms with the commercial companies, refused, preferring to put confidence in the reports of their ambassador in London that the king protested "he would not in any way violate his alliance with the Dutch."[33] Left thus to his own resources, Stuyvesant had endeavored to get powder and arms from Fort Orange and the settlement on the Delaware, and to bring the inhabitants in from the towns on Long Island to assist in the defense of New Amsterdam.[34] But all his efforts were useless. The Dutch residents themselves asserted that their fortress was "incapable of making head three days against so powerful an enemy," while the English were "exceedingly well fitted with all necessaries for warre, with much injineers and all other expedients for forcing the strongest fortifications."[35]

But the want of munitions of war and proper defenses was not the only matter which troubled the Dutch governor. As

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[33] Lister, III, 310; N. Y. Doc., II, 243.
[34] N. Y. Doc., II, 429.
[35] Ib., 248.

it was the object of the Duke of York to make his province profitable, he desired to win the good-will of the Dutch and induce them to remain there and become English subjects. He was, therefore, willing to offer them very liberal terms if they would submit without a struggle. In pursuit of this policy, Nicolls, as soon as he arrived at the west end of Long Island, caused a proclamation to be made known in the neighboring Dutch towns setting forth that all those who would submit themselves to the king's government might expect his protection, peaceable enjoyment of their estates, and all privileges of subjects of England.[36] News of this spread rapidly among the Dutch inhabitants and soon became known to the burghers at New Amsterdam. The result was that when Nicolls sent a summons to Stuyvesant for the surrender of the fort, the citizens demanded to be made acquainted with the terms offered. The governor refused, at first, fearing that the effect of the liberal offer upon the people would be to win them over to the English side. But they persisted, and the terms offered were made known, being substantially the same as those embodied in the proclamation. Winthrop now advised Nicolls that if the additional guarantee of free intercourse with Holland were offered, the Dutch inhabitants would all be willing to submit to his authority. Nicolls at once agreed to this concession, and Winthrop then drew up a letter to Stuyvesant informing him of this new concession and advising him as a friend to submit and avoid useless bloodshed. The letter was signed by Nicolls and two other commissioners.[37] Winthrop himself, together with his son Fitz John Winthrop, Mr. Willys of Connecticut, and Mr. Willett of Plymouth, crossed over to New Amsterdam to deliver it. As soon as Winthrop had departed, Stuyvesant, having read the offer, angrily tore the letter up and threw it on the floor in order to prevent its contents from becoming known. But the burghers had seen Winthrop hand it to the governor and, immediately he

[36] N. Y. Doc., II, 411; Trumbull, I, 268.
[37] Mass. Hist. Soc. Coll., 4 s., VI, 527.

was gone, raised a clamor to be informed of its contents. All the efforts of Stuyvesant to keep it secret were of no avail. The burgomasters demanded it in order to communicate it to the people. With difficulty, a copy was made by his clerk from the torn fragments and this was given out to the people.[38] The effect of this letter, together with the proclamation which preceded it, was to put all thought of resistance out of the minds of the inhabitants. A few days later when Nicolls began to land his troops in Long Island opposite the fort, and Stuyvesant was about to order his gunners to fire, he was presented with a remonstrance from the principal citizens, setting forth their helpless and defenseless condition and begging him to submit to the English.[39] Stuyvesant reluctantly complied with these requests. Negotiations were opened and four days later, August 29, the fort was surrendered without a shot having been fired.

The conditions agreed upon for the surrender were such as might mollify even the martial pride of the Dutch governor. They have been called "the most favorable ever granted by a conqueror." The Dutch soldiers were to leave the fort "with their arms, drums beating and colors flying, and lighted matches"; those who wished to remain were offered 50 acres of land. All Dutch citizens were allowed to continue free denizens; their property was to be fully retained; local officers were to retain their places until the regular time for elections; and religious liberty was fully guaranteed. But the most noteworthy provision was that regarding trade. Dutch vessels were given liberty to trade at New York, and for a period of six months all ships were to be allowed to enter and depart as under the Dutch government.[40] In granting this freedom of trade, however, Nicolls exceeded his authority inasmuch as it was a violation of the navigation acts, which not even the king himself had the right to set aside. The articles of surrender were signed by the agents from Massachusetts and Connecticut as well as the royal

[38] N. Y. Doc., II, 445, 476.
[39] Ib., 248.
[40] Ib., 250.

commissioners, the reason for this being, as Nicolls explained, that these colonies might be involved if any future trouble should arise with the Dutch.[41]

Immediately after the surrender, Nicolls directed his attention to the outlying Dutch communities. Sir Robert Carr was sent to reduce the settlement on the Delaware, and Colonel Cartwright proceeded up the Hudson to receive the submission of Fort Orange. Nicolls himself remained to take up the work of organizing the government of the new province. Cartwright carried out his mission with energy and promptness. By September 24, he had received the submission of the Dutch fort, changed its name to Albany, and negotiated a treaty with the Iroquois Indians. Not so with Carr on the Delaware. Fort New Amstel refusing to surrender, Sir Robert in hot haste ordered it to be stormed. In this operation, however, the English sustained no loss, Carr himself remaining on shipboard while it was in progress, and the Dutch had only three killed and ten wounded. Plundering was then in order, in which Carr, having now come ashore, himself seems to have gotten a good share of the booty. An agreement was finally entered into with the inhabitants on about the same terms as had been granted at New Amsterdam, and the name of the place was changed to New Castle. But Carr was not content with this. More anxious to satisfy his desire for gain than to carry out the instructions of the king, he remained on the Delaware, confiscating lands for himself and his friends, thus violating the instructions given him by Governor Nicolls. Nor were the summons of the other commissioners sufficient to recall him; Nicolls himself went to New Castle and later sent another commandant to supersede him, but he still lingered there, unwilling to abandon his prizes, until the following January, thus delaying the work of the other commissioners in New England.[42]

The conquest having been completed, it remained to

[41] N. Y. Doc., III, 103.
[42] Ib., III, 67, 69, 72, 82, 83, 84.

organize a government for the new English province. This was accomplished by Nicolls with only an almost imperceptible interruption of the local government. In theory the government was merely resumed by the English as though they had always been rulers there. It was the Duke of York's object to make the province as profitable as might be in order that it should become a substantial addition to the realm to which he was heir. The articles of surrender had retained the municipal officers in their positions. The day after the surrender the courts of burgomasters and schepens assembled and transacted business as though nothing had occurred. Most of the Dutch inhabitants came forward and took the oath of allegiance to their new sovereign and continued almost undisturbed in their daily pursuits.[43] Nicolls organized the provincial government by appointing a secretary and two members of his council from among those who had come over with the expedition; to these were added two councillors from among the inhabitants. As neither the Duke's charter nor his commission to Nicolls made mention of any representation of the people in the government, the Dutch gained no popular rights or privileges by the change of masters. Yet they accepted the new conditions gracefully, and appear soon to have become good English subjects.

Thus was accomplished the determination to "expulse" the Dutch "intruders." It has been denounced as a "scandalous outrage," "planned in secret," and "accomplished with deliberate deceipt," which "none but Englishmen had the impudence" to perpetrate. Yet the author of this denunciation is compelled to admit that the "temptation was irresistable," and its "accomplishment only a question of time."[44] Putting aside the methods employed, the acquisition of New Netherland was by all means the wisest and most beneficial act of colonial administration performed in this period. The territory held by the Dutch

[43] N. Y. Doc., III, 74.
[44] Brodhead, Hist. of N. Y., II, 37.

lay right athwart the lands included in the charters of Massachusetts and Connecticut which extended westward to the "South Sea." Sooner or later the steadily expanding New England communities must have come into deadly conflict with this foreign people for these lands which they believed to be their own. Indeed the conflict may already be said to have begun. Added to this was a possibility, also previously hinted at, that the disaffected party in Massachusetts would make common cause with the Dutch, if their rights were not recognized.[45] In Holland, belief in this amalgamation of interests was looked on as an immediate probability and was regarded as a source of strength to the Dutch colony. It was thought that the Puritans would prefer to live in amity with the Dutch rather than run the risk of loss of their religious liberties for the sake of which they had left their native land.[46] And while this view was proven to be unfounded by the readiness with which the New England communities rendered assistance in the conquest of New Netherland, this merely shows that as yet the feeling of nationality was stronger than the desire for religious autonomy, and that the idea of independence had not yet become fixed in the minds of the New Englanders. By the reduction of the Dutch, the English colonial possessions were territorially rounded out and brought into continuous contact with one another, and the monopoly of colonial trade, then so much sought after, could, it was thought, be more easily enforced now that there were no foreign ports in the midst of the colonies. This object was entirely in accord with economic theory of the times and the practices of other nations, and the English ministers were justified in their desire to bring it about, if not in the means by which they accomplished it.

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[45] See above, p. 65.
[46] N. Y. Doc., II, 235.

CHAPTER IV.

The Royal Commissioners in New England.

It was not, however, the possessions of the Dutch alone that were infringed on by the Duke of York's charter. The eastern boundary of his province extended to the Connecticut River, thus including a considerable portion of Connecticut already occupied by settlers, and the whole of New Haven which had recently been annexed to that colony. Clarendon is supposed to have had a definite object in view in annexing New Haven to Connecticut, namely, to gain the support of the latter colony and isolate Massachusetts, in order to render that colony more amenable to royal authority. He now, before Massachusetts had been brought to terms, and while she was still in an attitude of sullen defiance to the king's orders, abandoned or overlooked that object by taking from Connecticut, not only the New Haven territory so recently granted, but also a large district, including the capital, Hartford, which had always been recognized as within her jurisdiction. It is not only possible but probable that had any effort been made to enforce this boundary arrangement upon Connecticut that colony, as well as the New Haven towns,[1] would have been driven to open alliance with Massachusetts, the confederacy strengthened instead of weakened, and the difficulty of enforcing the king's authority in New England increased instead of lessened. Since the dispatch of the king's letter to Massachusetts in 1662, no steps had been taken to bring that colony to submission. It was in order to settle the questions raised by that letter, as well as the new difficulties occasioned by the resolution to conquer New

[1] The government of New Haven had not yet submitted to the Connecticut Charter. See below, p. 94.

Netherland that the affairs of New England were again brought before the council for plantations in the Spring of 1664.

The departure of the expedition against the Dutch was thought a favorable opportunity for the dispatch of the commissioners so long delayed by Clarendon. This project appears not to have been referred to in the council since April, 1663. And it was not until the spring of 1664, after all the arrangements had been made for the conquest of New Netherland, the Duke's charter passed, and the governor appointed for his new province that, in the latter part of April, the New England business was taken up and the commissioners actually appointed. Then the Duke's governor for New York was placed at the head of the commission, and they were instructed in "the first place of all business" to proceed against the Dutch. The inference from this is that the suppression of Massachusetts had come to be looked upon as a secondary consideration, and was made to await the convenience of other more important matters. If the desire to enforce the king's authority in Massachusetts had ever held the prominent place in Clarendon's mind, which is assumed in the theory that he passed the Connecticut and Rhode Island charters with that end in view, that desire was now overshadowed by more important business. Nevertheless there is a document among the colonial papers in the English State Paper Office which has been supposed not only to show Clarendon's personal interest in the affairs of Massachusetts in 1664, but to furnish reason for his hesitancy, prior to this, to take decided action against that stubborn colony.

This remarkable paper is in the form of a memorandum entitled "considerations in order to the establishing his Majestie's interests in New England." It is undated and unsigned, but in the calendar of the documents it is placed along with the papers relating to the appointment of the commissioners sent to New England in 1664.[3] It is supposed to

[3] Colonial Papers, 1664?, No. 706.

have emanated from Lord Clarendon, though it is not in Clarendon's handwriting.[3] The paper contains statements, however, inconsistent with the supposition that it could have been written at any time during the ministry of Clarendon. Thus it opens with the remark that the "King judging it convenient for his interests in New England to accept the surrender of Mason's patent for the Province of Hampshire on conditions already agreed upon, and Ferdinando Gorges being in treaty for the surrender of his patent for the Province of Maine," it becomes necessary to consider what shall be done with these territories. It states that "the King hath now a propriety as well as a dominion, by the surrender of the grants," and that the aim is to get "a submission to the King's own right upon those two Provinces." It is impossible to reconcile these statements with the facts regarding the provinces of Maine and New Hampshire in 1664, or at any time during Clarendon's administration. On the contrary they are in entire accord with the facts regarding those provinces ten years after the fall of Clarendon.

In 1664 the proprietary rights of Gorges and Mason in America had just been recognized and established anew by the king's order. Immediately after the restoration a petition from Mason that his province be restored to him was referred from the council for plantations to the attorney-general, Sir Geoffrey Palmer, for an opinion. In his report, dated November 8, 1660, the attorney-general stated that Mason "had a good and legal title to New Hampshire." Again in 1662 Mason's claim was affirmed by a committee of the council.[4] Gorges also succeeded in bringing his claims to Maine to the attention of the king at the beginning of 1664. The matter was referred to the same authority as had decided Mason's claim; the report was favorable to Gorges, and the king approved it and ordered the inhabitants of Maine to submit to the proprietor.[5] Moreover, the charter

[3] Palfrey, II, 578.
[4] Colonial Papers, 1662, Feb. 15; Belknap, New Hampshire, I, 59, 436.
[5] Colonial Papers, 1664, June 8, 11; Hutch. Coll., 385.

issued to the Duke of York at this time is itself a confirmation of Gorges' territorial rights, for, in addition to New Netherland and Long Island, it granted him the "maine Land of New England" from the St. Croix to Pemaquid. Pemaquid was the eastern boundary of Gorges' province which was thus left intact. It seems impossible to reconcile with these conditions the clause in the memorandum under consideration, referring to the completed surrender of Mason's patent and negotiation for the surrender of that of Gorges, if this memorandum is assigned to the year 1664. On the other hand in 1677 conditions were such that the claims of the memorandum are all perfectly clear. Mason and Gorges were never able to establish their authority in their respective provinces in face of the opposition of Massachusetts, and wearying of the attempt, in 1674 joined with the Earl of Sterling in a plan to surrender their rights to the king. It seems to have been the intention to erect a great province out of these territories for the Duke of Monmouth.[6] This part of the scheme fell through, but not the proprietors' determination to get rid of the government of their provinces. In 1675, Mason obtained a new hearing on the validity of his patent. At first it was reaffirmed by the attorney-general. But later the whole matter was gone into more thoroughly by the justices of the king's bench, who decided that Mason had no right to the government of New Hampshire, inasmuch as his grantee, the Plymouth Company, had possessed no authority to convey such, but that the right to the soil would have to be tried in the territory; that Massachusetts had no right to this territory, or government there; and that Gorges had a good claim to the province of Maine. This report was confirmed by the king.[7] The towns of New Hampshire being thus declared beyond the limits of Massachusetts and Mason's rights being withdrawn, their government reverted to the king. Mason, already advised

[6] Colonial Papers, 1672, Aug. 9, June 19; 1674, March 20; Hutch. Coll., 451, 472; Belknap, 65; Williamson, Hist. of Me., I, 448.

[7] Colonial Papers, 1675, March 14; 1677, May 31, March 31, June 7, July 17, 19, 20.

by his counsel that his governmental rights would be withdrawn, soon after made a settlement with the king, by which, for his proprietorship in the lands of New Hampshire, he was to receive a stated quit-rent of "sixpense in the pound" in lieu of all other dues. And in order that the king's authority and government might be established there, a letter was sent to Massachusetts ordering that colony to withdraw all pretentions to New Hampshire.[8] In this same letter the king expressed his displeasure at the purchase of Maine by Massachusetts, because "he was in treaty at the time" for that province. Gorges' plan for getting rid of his burdensome possession had not been abandoned. But finding the king a slow purchaser, probably owing to the state of the exchequer, he had closed with the offer of 1200 pounds made by John Usher as agent for Massachusetts. Not only was the king displeased at this, but, determined not to be thwarted in his plan of getting control of Maine, he stated his expectation "that on reimbursement of the sum paid, all deeds, etc., (would) be surrendered by their future agents."[9]

Thus, the words of the memorandum referring to New Hampshire and Maine would apply accurately to the conditions between July 20, 1677, when the governmental rights of Mason in New Hampshire were overthrown, and March 25, 1678, when the king learned of the sale of Maine to Massachusetts, or even after this date, for, according to the king's letter, he still had intentions of getting possession of that province. It remains to be seen whether there was at this period any intention of sending commissioners to New England as referred to in the memorandum. Here also the facts point to the later date as the one to which the paper should be assigned. The colonial papers show that from 1676-9, the affairs of New England were debated in council more thoroughly than at any time previous. In 1676,

[8] Colonial Papers, 1679, June 20, July 1, 2, 24; Hutch. Coll., 522.
[9] Colonial Papers, 1678, March 25; 1679, May 20, June 20; Hutch. Hist., I, 281. The deeds are in Me. Hist. Soc. Coll., II, 257. That from Gorges to Usher is dated March 13; Usher to Mass., March 15, 1678.

Edward Randolph had been sent to Massachusetts, nominally as the king's collector, but in reality to gather information for the settlement of the government there.[10] The letters of this active and zealous agent opened the eyes of the English ministers as to affairs in Massachusetts. In the discussion resulting from his representations, it was frequently suggested that agents or commissioners be sent out to New England, particularly to settle the questions relating to New Hampshire and Maine.[11] This agrees fully with the words of the memorandum, which suggests that the proposed commissioners proceed first to New Hampshire and settle the king's authority there and in Maine, and that they make no "applications or demands to Boston until the king's unquestionable right of propriety to New Hampshire and Maine be in good measure settled." On the other hand the actual instructions given to the commissioners in 1664 refer hardly at all to the two northern provinces, but place the chief emphasis on the conquest of the Dutch and the submission of Massachusetts.

The matter of the date and authorship of the memorandum is of importance, not only as bearing on Clarendon's interest in the affairs of New England, but also because it contains evidence as to its author's opinions concerning conditions in Massachusetts. Thus the paper states, with reference to that colony, "it may be presumed that they will harden in their constitution, and grow on nearer to a commonwealth, toward which they are already well-nigh ripened, if, out of present tenderness the attempt shall be deferred or neglected, whilst this and that government are at present under such and so many circumstances that look and promise fairly toward the effecting what is aimed at."

Here, it is said, is evidence of Clarendon's fear to offend Massachusetts until conditions were favorable for the enforcement of the king's authority there. Massachusetts is

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[10] Colonial Papers, 1676, March 20.

[11] Ib., 1675, May 1; 1676, March 20; 1677, May 6, June 7; 1678, April 8, 18.

well-nigh ripened into a commonwealth. But if this memorandum is referred to the attempt to bring New England to terms made in 1677-8, under the direction of Randolph, it removes all evidence of a motive for Clarendon's delay in bringing that colony to terms, and leaves but one explanation for his repeated failure to assert a legitimate control over New England, namely, that in the press of state business heaped upon this minister, who held, and was jealous to retain in his own hands, all the threads of government, both domestic and foreign, this colonial business was overlooked, postponed, and delayed; and that the expulsion of the Dutch from New Netherland was the determining factor which brought about the dispatch of commissioners to New England, and not the possibility that the way had been prepared by liberal grants to Connecticut and Rhode Island. The failure to dispatch the circular letter in 1661 points to this conclusion; so far as there is any documentary evidence to explain the granting of the charters in 1662-3 it suggests the same state of affairs; and all the details of the appointment of the commissioners in 1664 are of like evidence.

The commissioners for New England were appointed in the latter part of April, 1664, more than a month after the charter for New York had passed the seals. As this was the first body of commissioners ever sent out by the English government to investigate conditions in the colonies, the matter of their selection and the instructions drawn up for them are of much historical interest. It cannot be said that in either particular the ministers manifested a very high degree of wisdom. The membership of the commission foredoomed it to failure. Either as a matter of courtesy or because its work was to be so closely associated with the reduction of the Dutch, the matter of selection seems to have been left with the Duke of York.[12] Accordingly, at the head of the commission, appears the name of Colonel Richard Nicolls, whom the Duke had already appointed to be his deputy governor in New York. This was a wise selection

[12] Colonial Papers, 1662, Sept. 25.

so far as the fitness of the man is concerned. Nicolls was a man of ability and integrity, and was closely attached to the interest of the Duke. He had been in exile with the royal family, during which time he had seen service with the French armies under Turenne and Condé. At the restoration, he became one of the gentlemen of the bed-chamber of the Duke of York, and during his residence in New York as governor of the province he demonstrated abilities as a faithful and just administrator.[33] While the other commissioners were looked upon with suspicion by the New England colonists, Nicolls inspired their confidence and was held in respect by them.[34] What was not so wise was the giving to the governor of the province of New York the chief place on the commission. Any two of the commissioners were empowered to act, Nicolls being one of them; without Nicolls the approval of all the remaining three was required to make a decision. Evidently the distance between New York and Boston and the difficulties of communication between these places were matters not appreciated in London. The inability of Nicolls to leave New York for more than a few weeks to attend the proceedings of the commissioners in Massachusetts was destined to cause serious delay, and to a considerable degree accounts for the failure to accomplish any good results there.[35]

This defect of Nicolls' enforced attention to other matters, was not overbalanced by the capabilities of the other members. They were partisans and fortune-seekers. The best of the three was Colonel George Cartwright, a morose, saturnine, and suspicious man, with considerable energy and ability.[36] Sir Robert Carr was a man of violent temper known in England as a high drinker. Both he and Cartwright were officers in the royal army. Carr was a "high-handed royalist and Episcopalian" violent in his feelings

[33] New York Documents, III, 106, 114, 174; Brodhead, History, II, 137; Chalmers, I, 578.
[34] Mass. Rec., IV (ii), 168, 252, 255, 266, 274.
[35] N. Y. Doc., III, 93.
[36] Williamson, I, 409.

and supercilious in his conduct.[17] He was ready on the least pretext to denounce the colonists as traitors.[18] His chief object was to get a grant of land and a settlement for himself in New England from the king, and he permitted this private concernment to take precedence of and interfere with his discharge of public duties. So that his misconduct was more than once commented on by Nicolls, who was finally compelled to refer the matter to Lord Clarendon.[19] The remaining member of the commission, Samuel Maverick, was one of the original settlers in Massachusetts.[20] As a man perfectly familiar with the conditions in Massachusetts and the questions at issue, he should have been a valuable member. But his violent prejudices and the reputation he bore in the colony rendered him unfit for such a position. As a royalist and an Episcopalian he had been looked upon with suspicion by the general court and, at the restoration, had hastened to England to take revenge for the mistreatment he believed himself to have received. He there appeared repeatedly before the council for Plantations with testimony highly adverse to Massachusetts. He had not hesitated to accuse the government of that community with tyrannizing over its subjects and attempting to set up an independent state.[21] That such a person was selected as one of those sent out, on what Clarendon is supposed to have considered a very delicate mission, shows either that minister's carelessness in the matter or his failure to understand the true situation in Massachusetts. Maverick seems to have been given the appointment on his own request and as a reward for the services he had rendered to the council for plantations.[22]

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[17] Pepys, Diary, III, 314.
[18] Mass. Rec., IV (ii), 266; Hutch. Hist., I, 233.
[19] N. Y. Doc., III, 69, 72, 92, 109.
[20] Hutch. Hist., I, 26, 137.
[21] Mass. Rec., IV (ii), 168. In March, 1665, Clarendon, having heard complaints about Maverick's conduct, warned him not to "revenge any old discourtesies at the king's charge," or to "do anything upon the memory of past injuries." N. Y. Doc., III, 92.
[22] Colonial Papers, 1663, Aug. 1, 30.

The membership of the commission having been determined upon, much attention was given to instructing the commissioners in the work they were to undertake. In addition to their commission of appointment they were furnished with a separate letter of instruction for each of the New England colonies they were to visit, and another "secret instruction" for their guidance in Massachusetts. In addition to this the council for plantations wrote letters to the several governors of the colonies, informing them of the reasons for sending the commissioners thither.[22] These letters were to be presented by the commissioners to the governors on their arrival. That to the governor of Massachusetts is most elaborate and sets forth most clearly the purpose of the commission. Six principal reasons are given for the king's going to "this extraordinary charge": (1) To discountenance and suppress all "malicious calumnies that the king's subjects in those parts do not submit to his Majesties Government" but look upon themselves as independent, and that the king has not confidence in their obedience, all of which reports must vanish upon this manifestation of "his extraordinary and fatherly care." (2) That the colony may know it is not the king's intention to infringe their charter or liberty of conscience. (3) To settle all disputes as to bounds or jurisdictions between the colonies or have the same referred to the king. (4) To obtain full and particular information as to the condition of the neighboring foreign colonies in order that relations with them may be adjusted. (5) To protect the colonies against any foreign invasions or usurpations, such as the Dutch have perpetrated, to the destruction of trade, and to secure the reduction to obedience of the places held by the Dutch. (6) To secure greater compliance with the terms of the king's letter of June 28, 1662, than has yet been obtained.

Their own letter of instructions for Massachusetts was for the most part an elaboration of the points above mentioned.

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[22] Colonial Papers, 1664, April 23. The documents are printed in N. Y. Doc., III, 51-65.

Some additional directions were given, principally on the side of restraint. Thus the commissioners were warned against "giving too easy an eare to clamours and accusations," and were told to take no notice of such rumors unless well substantiated. They were not to interrupt the regular proceedings in justice, by hearing cases, unless those proceedings were expressly contrary to the charter. As regards boundaries, they were to make no final decision, but only a temporary arrangement, unless with the consent of the parties concerned and where the terms of the charter were uncontradicted by any other grant. They were furnished with copies of the addresses sent formerly by Massachusetts to the king, and the king's reply, and were authorized to secure compliance with the orders of the king expressed in his letter of June, 1662, regarding the oath of allegiance, the administration of justice in the king's name, and freedom for the use of the Book of Common Prayer. They were to find whether the regicides were, or had been, in the colony and get the names of any persons who received or harbored them, and, lastly, they were to see that provision be made for the enforcement of the navigation laws.[24]

These instructions for Massachusetts the commissioners were to apply as far as posible to Connecticut. In addition thereto, they were to investigate the differences and disputes with Rhode Island about their boundaries and the title to the Narragansett lands claimed by the Atherton Company, and, if they found reason, reclaim this territory in the king's name. For Rhode Island and Plymouth they were to follow the suggestions given in the instructions for Massachusetts and Connecticut, and in cases not mentioned to use their own discretion.

So far, the purpose of the commission appears to be strictly within the limits justified by the circumstances. The demands made and the ends aimed at were such as any superior power would be expected to make and to enforce toward a dependency. But the private instructions go

[24] N. Y. Doc., III, 51.

farther than this and express a purpose far more questionable. All the points already mentioned are confirmed; the commissioners are told again to avoid any act which would suggest that the religion of the colony is to be interfered with, otherwise than in the securing of liberty for the use of the Book of Common Prayer; they were even, to this end, urged to frequent the services in other churches; they were again warned against giving ear to factions, particularly such as might desire a change in religion, and any who should propose settling a revenue on the crown; and they were once more informed that the great object was to secure conformity in government with the provisions of the charter, and in legislation with the laws of England. Then the commissioners were instructed, after "insinuating" themselves "by dexterous carriage into the good opinion of the principal persons" to have a general assembly called to which they were to make "the utmost endeavors privately," but "without offence, to gett men of the best reputation and most peaceably inclined" chosen. To this assembly they were to make their appeal, so far as possible, over the heads of the governor and council, conferring "with them upon all particulars relating to your negotiations," assuring them "that wee look upon them with the same fatherly care as if they lived in the centre of eyther of our kingdomes," and communicating to them all the letters and addresses that had passed between the colony and the king. By these means they were to try to gain several points not referred to in the open instructions or in the letter to the colony: (1) "That wee may have the nomination of the governor or approbation." (2) "That the Militia should be put under an officer nominated or recommended by us." (3) It would be regarded "as a good omen, if they might be soe wrought upon at the general assembly as that Colonel Nicolls might be chosen by themselves for their present governor, and Colonel Cartwright for their Major Generall." (4) While the raising of a revenue is explicitly denied, the language suggests that this will in time be demanded, as it is stated "all

designes of proffit *for the present* seem unseasonable and may possibly obstruct the more necessary designes."[34]

There seems little doubt that if the points here mentioned were found to require the alteration of the charter, the intention was not to stick at even that.[35] Indeed, the commissioners were commanded to take note of all such clauses in the charter as "are either too short and restrained and the enlarging whereof would bee for the publik benefit of the plantacon; or such other inconvenient ones, as for our dignity and authority should bee altered by a generall consent and desire." One of these convenient changes is even suggested, namely, "that the severall governors should hold their places three or five years and that before the middle of the last yeare three names should be sent over and presented to us, that one of these might be chosen by us for the next Governor." Finally, the commission of appointment, which invested the agents with legal authority for the acts they were to perform, was expressed in such general terms as would warrant, for the time being, the complete suspension of the charters and local governments in the colonies. It conferred power "to hear and to receive and to examine and determine all complaints and appeals in all cases and matters as well military as civil and criminal, and proceed in all things for the providing for and settling the peace and security of the said country according to their good and sound discretion" and subject to their instructions. Some restraint was commanded by these instructions, as has been pointed out. But the commissioners were themselves to be judges of the necessity for overstepping the restraint. And there can be no doubt but that the power of hearing and determining appeals was a violation of the charters, by which no such right had been reserved even to the king himself. Whether the alteration of the charters so as to gain to the king the control of the executive branch of the colonial

[34] N. Y. Doc., III, 57.

[35] "It may be if they will consider their charter they will not find that they have in truth the disposal of their own militia as they imagine."

governments, and the right to hear appeals was absolutely necessary for the enforcement of the commercial laws and administrative policy of England, is open to a possible doubt. On the face of the matter it would appear to be practically impossible to enforce a hostile policy by legal means upon a community with which there was no legal official means of communication. The charters of Massachusetts, Connecticut, and Rhode Island were in this respect administrative errors of the worst kind. But this method of correcting the error was unworthy of the English government. The insidious and insinuating policy urged upon its commissioners was deceitful and dishonest. In the end it proved unfortunate for their own interests. For the magistrates of the colony were informed in advance of the suggestions made in the "secret instructions," and the intention there so plainly set forth, of altering their charter, so prejudiced them against the commissioners, that they were ready to use every means in their power to defeat even the less harmful and wholly proper objects."[27]

When the magistrates at Boston learned of the coming of the commissioners, and the powers that had been conferred upon them, they were naturally much alarmed and made preparation for the defence of their liberties. The general court, in May, ordered the captain of the castle to keep a lookout for the ships, and, "on the first sight and knowledge of their approach," give warning to the governor. Two captains of the militia were ordered to go aboard the ships immediately on their arrival and "acquaint those gentlemen that this Court hath and doeth by them present their respects to them," and that it is desired "that they take strict order that their under officers and soldiers, in their coming on shoare to refresh themselves, at no time exceed a convenient number, and that without arms, and that they behave themselves orderly amongst his magistys good subjects heere, and be carefull of giving no offense to the people

[27] N. Y. Doc., III, 136. Nicolls was confident that the document had been stolen by John Scott and conveyed to New England.

and lawes of this place." With this rather pointed reminder, the visitors were to be invited ashore, and the military commandant was to arrange for their reception. But the care of the Bostoners did not stop here. Arrangements were made "to keepe the Pattent safe and secret." It was brought to the court and delivered to a committee composed of the deputy governor and four other officers "to dispose thereof as may be most safe for the country."[28]

Before the commissioners departed from Boston to prosecute their design against the Dutch, after they had presented their request for soldiers, they took opportunity to remind the magistrates that "there were many more things to signify to them" and, in order that they might employ the interval profitably, the king's letter of June, 1662, was referred to them for a "more satisfactory answer than formerly." Accordingly when the general court met in August, it immediately, before considering the question of advancing against the Dutch, proceeded to comply with some of the requirements of that letter, which up to this time had been disregarded. The first entry on the records of this meeting is that of the repeal of the law limiting freemen to church members. In its place they passed an act providing that all English householders twenty-four years of age, ratable in one single rate to the amount of ten shillings, on presenting a certificate from the ministers of the place where they live, that they "are orthodox in religion and not vitious in their lives" might be admitted to the "freedom of this commonwealth" by the vote of the general court.[29] The haste with which this change was made, shows that the rulers of the colony were now thoroughly alarmed. Up to this time they had placed great importance on the maintenance of a standard of religious conformity for membership in their body politic. The law which they repealed had been enacted after the receipt of the king's letter in 1662. They now abandon that extreme position and take their stand upon

[28] Mass. Rec., IV (ii), 101, 102, May 18, 1664.
[29] Mass. Rec., IV (ii), 118.

more certain ground. Yet, although by this change they surrendered a principle, practically they conceded nothing. It was a shrewd move, for technically they had complied with the king's requirements. Not three freemen in a hundred were rated so high as ten shillings at a single rate, and besides, the requirements of a certificate of orthodoxy from a minister, placed the operation of the law virtually under the control of that class. The commissioners were quick to see through this scheme of the magistrates, and were able to turn it to account against the colony. Cartwright wrote that they had admitted two or three men not church members "that by it they might avoid the king's letter in that poynt." Later the three commissioners wrote to Secretary Bennet that the few exceptions they had made were in order "to gain some to their partie, and to serve to delude the king with a show of complyance." Following this line of argument they reached the conclusion that religious liberty could not be enforced in the colony "without a visible force." [20]

Having taken this step toward reconciling themselves with the king, the magistrates resolved to make an attempt to have the royal commissioners recalled. A committee composed of two magistrates and one minister was appointed by the court to prepare a petition to the king with this object in view. The work was undertaken with great care and the document which was drawn up was approved by the general court in the following October.[21] While unnecessarily adulatory in some points, this petition was on the whole a bold and manful appeal to the sovereign to respect the rights and liberties of a poor people who had already suffered much for their conscience sake. It speaks of the king as "numbered here among the Gods." Then, with "moving eloquence," it reviews the great sacrifices, hardships, privations, and labors of "this people," who "did at their own charges transport themselves, their wives, and families, over

[20] N. Y. Doc., III, 84, 102.
[21] Mass. Rec., IV (ii), 119, 129.

the ocean, purchase land of the natives, and plant this colony." It refers to the king's promise of clemency in 1661, and to his letter of June, 1662, confirming their charter and privileges. Regarding the other particulars mentioned in that letter it states, "we have applied ourselves to the utmost to satisfy your majesty, so far as doth consist with conscience of our duty toward God and the just liberties and privileges of our patent." The petition then takes up the question of the royal commissioners. The colonists are pleased, it states, with "your majesty's gracious expressions," in the letter brought by the commissioners, and that "your majesty hath not the least intention or thought of violating or in the least degree infringing the charter."[22] Yet they are alarmed at the terms of the commission "wherein four persons (one of them our known and professed enemy) are empowered to hear, receive, examine, and determine all complaints and appeals . . . and to proceed in all things for settling this country according to their good and sound discretion; whereby instead of being governed by rules of our own choosing . . . and by laws of our own, we are like to be subjected to the arbitrary power of strangers, proceeding not by any established law but by their own discretions." If these things go on they will be forced to "seek new dwellings or sink and faint under burdens that will be to them intolerable." If there have been expectations of great profit here, the king will be disappointed and will lose by the operation. The cost of the expedition is greater than can be the gain to the king. The country will support only a "meane people" and will not provide a gentleman even with "livings and revenue." If the people are driven out of the country "for to a coalition therein they will never come," no other will be found to withstand the burdens of the wilderness. They came here not to seek great things but to keep themselves within their line and "meddle not with

[22] Considering that the terms of the "secret instruction" were not supposed to be known to the magistrates, this must have appeared to the king as a good joke.

matters abroad." "A just dependence upon and subjection to your Majesty, according to our charter, it is far from our hearts to disacknowledge." Yet it is "a great unhappiness" to be so reduced "as to have no other testimony of our subjection and loyalty offered us but this, viz., to destroy our own being, which nature teaches us to preserve, or to yield up our liberties, which are far dearer to us than our lives." [33]

Along with this petition the court sent letters addressed to Robert Boyle, Lord Clarendon, and Secretary Morrice. To Boyle they said "we can sooner leave our place and all our pleasant outward enjoyments, than leave that which was the first ground of wandering from our native country." [34] Secretary Morrice they asked to appear for them in the debates before the council. "We are poor and destitute as to interest with any that have power to be helpful to us at such a time, except the Lord be pleased as formerly he hath done to move your Honor's heart in our behalf." [35] But these letters, like the petition, made no impression upon those to whom they were addressed other than to create surprise at the demands they made. Boyle answered that he was "amazed to find that they demanded a revokation of the Commission," that after reading over the instructions with Clarendon he thought their demands unreasonable, and that their "friends there will be much discouraged from appearing in their behalf." [36] And Clarendon wrote that he had read over their petition to the king, and that he confessed to them he was "so much a friend to their Colony, that, if the same had been communicated to nobody but himself, he should have dissuaded the presenting the same to his Majesty," who he presumed would not "think himself well treated by it." He says that he and Mr. Ashurst have read over the instructions to the royal commissioners and cannot

[33] The commissioners reported that underhand dealings were employed by the magistrates to have this petition adopted. Cartwright to Nicolls, N. Y. Doc., III, 84.
[34] Hutch. Coll., 388.
[35] Colonial Papers, 1664, Oct. 19.
[36] Danforth Papers, Mass. Hist. Soc. Coll., 2 s., VIII, 49.

understand what is meant by their saying the charter is in danger. The commissioners are to see that the charter is observed and not to meddle with justice. But in special cases where injustice has been done it cannot be expected that the king has no remedy and the people no redress by appeal. And he adds, "it will be absolutely necessary that you perform and pay all that reverence and obedience which is due from subjects to their king."[87] And Secretary Morrice answered his letter and the petition, by writing that the king was not pleased with the letter, "and looked upon it as the contrivance of a few persons who had had too long authority there," and that "his Majesty had too much reason to suspect that Mr. Endicott, who had during all the late revolutions, continued in the governorship there was not a person well affected to his Majesty's person or government." Hence they were requested to choose some one else in his place.[88]

While this ineffectual attempt was being made to have them recalled, the royal commission had completed the subjection of the Dutch colony. They now, before leaving New York, took up the important task of adjusting the boundary between the Duke's province and Connecticut. Here there was a decided conflict of claims, both based on recent royal grants. The western limit of Connecticut had been designated as the "South Sea" thus including both New Haven and the Dutch possessions, while the Duke of York's charter ex-

[87] Letter from Clarendon, March 15, 1665, Hutch. Hist., I, app. 464. One would like to know whether Clarendon really thought true what he was writing, or whether as in dealing with the Dutch in the previous year, he was merely keeping up the deception. With Boyle and Ashurst, it was somewhat different as they probably knew nothing of the secret instruction. For these conflicting views about prerogative and charter rights, see below, p. 140. But whether Clarendon believed it or not he thought that his maintaining the prerogative, and the king's answer to the petition would "dispose them (the magistrates) to a better temper." Clarendon to Maverick, March 15, 1665, N. Y. Doc., III, 92.

[88] Letter from Morrice, Feb. 25, 1665, N. Y. Doc., III, 90. It was the king's desire that Nicolls be chosen governor; see above. Before the letter reached the colony, Endicott was beyond reach of the king's displeasure. He died, March 15, 1665.

tended his province eastward to the Connecticut River. It was not strange, therefore, that Connecticut, in spite of the favorable treatment she had so far received from the home government, should, at the approach of the royal commissioners, view her liberties as in "equal danger with those of their sister colonies." But Connecticut adopted a different method to protect her rights from that pursued by Massachusetts. Instead of obstructing and opposing, the general court proceeded "to congratulate his Majesties Honorable Commissioners" and made them a present of four hundred bushels of corn.[39] Yet, while putting forward this conciliatory attitude, they were anxious to have the question of their jurisdiction over New Haven settled in their favor, before the commissioners should take up the matter of boundaries. The resistance of New Haven to the Connecticut charter had been carried on vigorously since 1662 both in her own court and that of the united colonies, and while she was fighting a losing battle owing to the defection of her outlying towns to Connecticut, yet the government was by no means ready, in the summer of 1664, to make a submission. This controversy was now looked upon as endangering all the New England colonies, for, if it should come to the ears of the commissioners, New Haven might be annexed to New York, the Duke's province extended to the Connecticut River, and royal authority thus brought much nearer to Boston. But New Haven preferred union with Connecticut rather than absorption in New York. Accordingly, when this phase of the situation was brought to the attention of that colony immediately on the arrival of the commissioners at Boston by messengers from Massachusetts and Connecticut, the struggle was given up.[40] The general court met in August at New Haven and after "much debate" the "danger of standing as we now are if the king's commissioners come amongst us" was so apparent that it was voted to submit to Connecticut until the matter should be deter-

[39] Conn. Rec., I. 433, 435; Trumbull, I. 272.
[40] New Haven Rec., II, 545.

mined by the court of the confederation.[41] But when this court assembled in the following month it refused to change its decision of the previous year or to interfere further than to urge, on account of the common danger, a speedy settlement of the dispute.[42] Thus, although the formalities of submission were not carried out until December, when the royal commission took up the question of the boundary of New York in November, they were presented with the claim of but one colony; New Haven had to all intents and purposes ceased to exist.[43]

In October, after the preliminary submission of New Haven had been made known, the general court of Connecticut took up the important question of her boundaries with other colonies. Besides the uncertainty as to her western limits her eastern boundary line was in dispute. Connecticut had never given up the claim to the land as far as Narragansett Bay to which her charter entitled her, in spite of the express rejection of the claim in the Rhode Island charter which was passed subsequently. At the same time, then, that a committee consisting of Governor Winthrop, his son Captain Winthrop, Messrs. Allyn, Gold, and Richards were authorized to treat with the royal commissioners regarding the boundary with New York, another committee of five was sent to settle the dispute with Rhode Island and Massachusetts about the possession of the Narragansett country. But it is noteworthy, as regards the attitude of Connecticut in these disputes, that while the former commitee received no official instructions, the latter were forbidden to give up any lands included within the bounds

[41] N. H. Rec., II, 546.

[42] Records of the court of commissioners of the united colonies, Hazard, II, 488, 497. In the previous year, the court had voted that New Haven "may not by any act of violence have their liberty of jurisdiction infringed by any other of the United Colonies."

[43] Conn. Rec., I, 437; N. H. Rec., II, 549, note. The prolonged debate had, however, reached the ears of the royal commissioners. New Haven boasted that they had been "silent as to the making of any grievance known to the royal commissioners." But Connecticut complained that "their non-compliance was soe abundantly known to those gentlemen." N. H. Rec., II, 552-4.

described by the charter.[44] The uncompromising spirit of this instruction might be expected to render the mission futile, while the more liberal authority given to the former resulted in a settlement entirely favorably to the colony.

Winthrop and his associates after having witnessed the conquest of New Netherland in November met with the royal commissioners at New York to arrange the boundary. The question was fully discussed and the case for Connecticut eloquently presented. It was urged that, should New York be extended to the full limit authorized by the Duke's charter, Connecticut would be practically annihilated. On the other side, it was Colonel Nicolls who, as leading commissioner and Governor of New York, took the most conciliatory attitude. In spite of the fact that the commissioners were informed in their instructions for Connecticut, that, owing to "a difference in matter of fact" in which the king "could make noe clear determination of the right," the Connecticut charter had been granted on the understanding with Mr. Winthrop "that we should find the same submissive to any alteration at that time, and upon such a visitation, as if no charter were then passed to them,"[45] Nicoll's advice was that the Duke's right should not be enforced to the fullest extent. He was of the opinion that such a settlement would violate the Connecticut charter recently granted and so "cast disfavor upon his majesty." Hence, it was agreed that towns purchased, possessed, or gained, by New Haven or Connecticut should belong to Connecticut, provided such a settlement would not bring the Connecticut boundary nearer than twenty miles from the Hudson River. Although this arrangement would considerably reduce the extent of New York, Nicolls assured them it "would be an acceptable service" to the Duke.[46] As a means of fixing more definitely the line twenty miles from the Hudson river, the Connecticut committee suggested, as a starting point, the

[44] Conn. Rec., I, 435.
[45] N. Y. Doc., III, 55.
[46] Ib., 106, 231; Conn. Rec., II, 341.

Mamaroneck Creek which they assured Nicolls would be "twenty miles everywhere from the Hudson River," and "about twelve miles to the east of West Chester." An agreement was then drawn up and signed on November 30, "that the creek or river called Mormoroneck . . . and a line drawn from the east point or side, where the fresh water falls into the salt at high water mark north-northwest to the line of Massachusetts, be the western boundary of the said colony of Connecticut." The southern boundary was declared to be the sea; and Long Island was "taken under the government of his royal highness the Duke of York as is expressed in plain words in the said patents respectively." [47]

It was supposed that the question had been thus satisfactorily settled; yet this did not prove to be the case. On the understanding that the boundary should be twenty miles from the Hudson River, the line was an impossible one. It started about ten miles from the Hudson and instead of running due north, as it should, followed a northwesterly direction. The line described crossed the Hudson near Peekskill and cut the extended southern line of Massachusetts near Ulster County, New York. The royal commissioners, ignorant of the lay of the country, would seem to have been deceived. For, it can hardly be supposed that the members of the committee from Connecticut were all unaware of the location of the line. In the boundary settlement made with the Dutch in 1650 a similar principle had been followed, the line then agreed on running ten miles instead of twenty from the Hudson. The starting point of the line of 1650 had been the west side of Greenwich Bay.[48] Now, Greenwich Bay is only a very short distance east of Mamaroneck Creek, so that if the people of Connecticut supposed, as they did and which is nearly correct, that Greenwich Bay was ten miles from the Hudson River it is impossible that they could have been so ignorant of the location of Mamaroneck Creek as to think it twenty miles

[47] Conn. Rec., II, 339, 570; Trumbull, I, App., 525.
[48] See above, p. 62.

from that river. Moreover, the line of 1650 was to run due north twenty miles, whereas that of 1664 was deflected to a northwesterly direction. The commissioners afterwards stated that they had been "mistaken by wrong information."[48] That they should be ignorant of the places and distances in question was natural. What is not so excusable is that they did not make some effort to investigate. They must have had the means at hand of determining the general trend of the Hudson River; and a journey from New York ten or twenty miles to the eastward could not have been a very arduous undertaking at that time of the year, in comparison with the long trips they made through New England in the dead of the following winter. But this is not the only instance of their carelessness in the work they were engaged in.

The agreement was never ratified in England either by the king or the Duke of York. When the new charter for New York was drawn up in 1674 it described the eastern boundary of the province in the same terms as the earlier one had done, namely, as formed by the Connecticut River. When Edmund Andros came out as governor of New York immediately afterward, he attempted to enforce the provision of the charter. But Connecticut persisted in adhering to the agreement made in 1664. And the Duke of York, two years later, instructed his governor that he was content to let the matter rest for the present, provided the people of Connecticut did not come closer to the Hudson than twenty miles.[50]

As soon as the boundary between Connecticut and New York had been arranged, Cartwright and Maverick proceeded to Boston where they arrived before the middle of January, 1665. Nicolls remained in New York, and Carr still tarried on the Delaware.[51] Accordingly, as two commissioners could not act officially unless Nicolls was one,

[48] Commissioners' Report, Colonial Papers, 1665, Dec. 14.
[50] Conn. Rec., II, 339, 570; N. Y. Doc., III, 235.
[51] N. Y. Doc., III, 83, 84, 87.

Maverick and Cartwright began to "insinuate" themselves with the people of Massachusetts. In January they reported that the people were in great alarm over the safety of their government; that they were complaining of the great expense of 300 pounds to which the colony had already been put for entertaining the commissioners; that it was rumored that a tax of 12 d. per acre of land was to be imposed; and that three or four persons had been admitted to the general court in order to avoid the censure of the king.[83] By February rumors as to what was to be done had increased. The discipline of the church was to be overthrown and appeals allowed to England. The people were making wagers that the commissioners would not sit as a court in Boston. Cartwright had given up hope of getting a good election and suggested instead, that the freemen should be called together to hear the proposals from the king, and that the other colonies should be visited first in the hope of getting their submission as an example for Massachusetts. He himself had not yet dined with any of the freemen, but said he would not "hinder his Majestie's service" by "saving of a little expense."[84] Maverick, however, knew the country better and could not resist the opportunity to parade as the king's officer. According to his idea Cartwright had been "too retired." He hoped that he had "not been over sociable." He had visited his friends, and was mistaken if he "did not undeceive both Magistrates and Ministers and other considerable persons. It cost (him) unavoydably 10 pounds."[85]

Carr finally reached Boston on February 4, having stopped for several days on his way at Newport, where "his presence gave great satisfaction" and where he delivered to the magistrates of Rhode Island the letter from the king.[86]

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[83] Cartwright to Nicolls, Jan. 25, 1665, N. Y. Doc., III, 84. Compare Mass. Rec., IV (ii), 136.

[84] Cartwright to Nicolls, N. Y. Doc., III, 87; to Secy. Bennet, ib., 89.

[85] Maverick to Nicolls, ib., 88.

[86] Ib., 87; Arnold, History of Rhode Island, I, 314.

The three commissioners now resolved to carry out the plan already suggested by Cartwright, of visiting the smaller colonies first. Accordingly, having obtained guides, they set out on the 16th for Plymouth, where they arrived before the 22d; passing on, accompanied by the governor and Major Winslow, they reached Rhode Island on March 4, having been met at Seaconck by a committee from the general court; they then visited Connecticut, and, returning through the Narragansett country, Maverick and Cartwright reached Boston again on the 14th and 13th of April, respectively, while Carr, as usual behindhand, had not arrived at that place by the 19th.[86] In each of these colonies the commissioners were well received and their acts met with no particular opposition. In Rhode Island they were made to feel most at home; their presence afforded a "guarantee of safety and increased the feeling of loyality."[87]

To each of these colonies the commissioners presented the same demands, similar to those which had been addressed to Massachusetts in the royal letter of June 28, 1662, namely: (1) That all householders take the oath of allegiance and that justice be administered to the king's name; (2) That all men of competent estate and civil conversation be admitted as freemen; (3) That all persons of orthodox opinions, civil lives, and competent estates be given liberty of conscience in religion, either by admitting them into congregations already formed or permitting them to form new congregations; (4) That all laws and expressions in laws derogatory to the king, if any exist, be repealed. To these a fifth was added for Rhode Island, urging that the colony be put in a posture of defense. Most of these propositions accorded with former practices in the several colonies. When this was not the case, the demands were readily

[86] Maverick to Nicolls, N. Y. Doc., III, 93; Cartwright to same, ib.; Arnold, I, 314.

[87] Arnold, ib.; Clarke had been sent to New York with a congratulatory letter; Governor Brenton invited them to stop at his home; and the court voted to pay all expenses of their entertainment. R. I. Rec., II, 86, 92.

assented to.[58] In answering the third, Plymouth added the proviso that persons have not the liberty of withdrawing from the support of an established minister "until they have one of their own," and that in such places as are capable of maintaining "two congregations, so that such congregations as are already in being should (not) be rooted out."[59] The commissioners assented to this condition, and when the propositions were presented to Connecticut and Rhode Island the third was made to conform to this alteration. The general court of Rhode Island objected to the oath required in the first proposition, but substituted an "engagement" to the same effect which was also accepted as satisfactory.[60]

In addition to these general matters the commissioners gave their attention to several things of particular interest to each colony. To Plymouth they suggested a new charter which would bring the colony into closer dependence on the mother country, with the provision that the governors might be appointed by the king. But the colonists "preferred to remain as they were."[61] Another suggestion was made to Plymouth which seems not to have been referred to any of the other colonies. The commissioners said that the king had been informed that the New England confederation was "a war combination made by the four colonies, when they had a design to throw off their dependence on England, and for that purpose." Accordingly they were requested to make a statement to the effect that the articles of confederation did not oblige them to "refuse his Majesty's authority, though any one, or all, of the other three, should do so." To this the colony replied, "the league between the colonies was not with any intent (that we ever heard of) to cast off our dependence upon England, a thing which we utterly abhore."[62] This denial seems to

[58] Commissioners to Secy. Bennet, N. Y. Doc., III, 96; Plymouth Rec., IV, 85; R. I. Rec., II, 110; Conn. Rec., I, 439.
[59] Hutch. Hist., I, 214.
[60] R. I. Rec., II, 112.
[61] Ply. Rec., IV, 92.
[62] Letter from Cartwright to Plymouth Colony, Mass. Hist. Soc. Coll., V, 192; Hutch. Hist., I, 215.

have been sufficient to satisfy the commissioners as to the objects of the confederation for the matter was not referred to in their dealings with the other colonies. Rhode Island was still more submissive. Here the commissioners sat as a court of appeals and heard a number of petitions and complaints, some of which were settled while others were referred to the general court. Of the latter, one at least was referred back again to the commissioners, it being a complaint involving a charge against the governor.[83] The government of the colony thus freely recognized the authority of the commissioners to act as a court of appeals while the commissioners, having gained this acknowledgment, and perhaps in order to establish a record for leniency which would encourage Massachusetts to make a similar submission, were, no doubt, glad to be rid of the responsibility and the trouble involved in deciding the petty disputes of the colonists. Two petitions, however, of greater importance than the others, involving serious charges against the justices of Massachusetts, were reserved for consideration when the commissioners should arrive again in that colony.

But by far the most important question that came before the commissioners while in Rhode Island and Connecticut, was the adjustment of the claims to the Narragansett and Pequot country. To this territory or portions of it all the New England colonies laid claim. Massachusetts by right of conquest from the Pequot Indians and by a submission to her authority made by the settlers at Pautuxet in 1642.[84] Plymouth as a part of the grant made by the council for New England to Bradford in 1630.[85] Rhode Island by virtue of occupation and the royal charter of 1663 which expressly nullified all other grants, and gave to that colony the land as far west as the Pawcatuck river. And

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[83] R. I. Rec., II, 98-109; N. Y. Doc., III, 96.

[84] Mass. Rec., IV (i), 353 (ii), 26, 27; Conn. Rec., I, 570; Hazard, II, 395, 448. Massachusetts also held a patent for this territory granted by Parliament during the Civil War. Rec., III, 49; R. I. Rec., I, 133. She had, however, never attempted to enforce this grant.

[85] Winthrop, History, II, 59; Hazard, II, 200.

finally Connecticut, by right of her charter of 1662 and the original grant to Lord Say and Sele extending east to the Narragansett Bay, both of which, however, were made void, so far as affected this land, by the Rhode Island charter. In addition to these claims, the Duke of Hamilton held a patent from the Plymouth Company, granted in 1631, for a tract of land 60 miles square on the east side of the Connecticut River. The Duke, just prior to the departure of the commissioners from England had petitioned the king to restore this land to him, and his petition had been referred to the commissioners.[66] But the question did not end here. In 1644, Samuel Gorton and several others, settlers at Warwick in the Narragansett country, in resistance to the attempts of Massachusetts to drive them from their lands, procured a deed from the Narragansett Indians surrendering the whole territory claimed by that tribe to the king of England and placing the people under his protection. Two years later this deed was carried to England by Gorton and laid before the Parliamentary Commission.[67] The royal commissioners were fully aware of the existence of this deed. But these same Narragansett Indians had in 1659 sold a considerable tract of this land, lying twelve miles along the west side of the Narragansett Bay, to a group of men known as the Atherton Company. Later, they had mortgaged the remainder of their land to the same company for the insignificant sum of 735 fathoms of wampum. By the foreclosure of this mortgage, the whole Narragansett country had come into the possession of this company which was composed of men from Massachusetts and Connecticut.[68] When the charters for Connecticut and Rhode Island were being applied for, the company had made an effort to have their lands included in the former colony and had partially succeeded, an agreement having been made that they should be allowed to chose for themselves which

[66] Trumbull, I, App., 524.
[67] R. I. Rec., I, 134, 367.
[68] R. I. Rec., I, 464, 465; Conn. Rec., II, 541; Mass. Hist. Soc. Coll., 3 s., II, 5.

colony they would submit to. Accordingly, in 1663, the company placed their lands under the jurisdiction of Connecticut and that colony accepted the surrender and appointed magistrates to assume the government there.[69]

In the face of so many conflicting claims the royal commissioners made no attempt to determine the right of jurisdiction claimed by the several parties. But they were obliged to take some action to put a stop to the contentions between the colonists which had more than once threatened to break out in open violence.[70] For this purpose it was deemed best to seize the territory in the king's name and postpone a definite settlement until the question of right could be determined in England. An Indian sachem was found who confirmed the earlier grant from the Narragansetts to Charles I. This was then adopted by the commissioners, the land was settled on the Indian occupants, they were taken under the king's protection, the district was named King's Province, and the magistrates of Rhode Island were given authority to administer justice there until the king's decision could be heard.[71] Having determined upon this general line of action it remained to fix the bounds of the province and settle the question of ownership in the land. As the Atherton Company was composed of men chiefly from Massachusetts, it appeared that that colony, by encouraging the members, was attempting to prevent the growth of Rhode Island, for it was found that the Narragansett country was "almost all the land belonging to this colony which cannot subsist without it."[72] Accordingly the titles of that company were declared void on the ground that no sufficient consideration had been paid and that its members knew of the previous surrender to the king. The company was ordered to vacate the land within six months, provided the purchase price had been returned by that time. To prevent such aggression in the future the

[69] See above, p. 46; Conn. Rec., I, 407, II, 542.
[70] R. I. Rec., I, 452, 455, 463, 469-473, 493.
[71] Ib., II, 59, 60, 93, 127; N. Y. Doc., III, 96.
[72] R. I. Rec., II, 127.

commissioners issued a decree prohibiting any colony from disposing of land conquered from the Indians beyond its chartered limits. Grants made by Connecticut and Massachusetts as well as by the confederation in the conquered Pequot country were thus nullified.[73] King's Province having been thus reclaimed it was extended from the Narragansett Bay to the Pawcatuck River and the southern boundary of Massachusetts.

But it was one thing to issue decrees, another to get them obeyed. Six months was found to be too short a time for the settlers in King's Province to remove; consequently in August the decree ordering their removal was revoked. More severe measures were taken against an old Indian, Pumham, who claimed some land in the province and was also backed up by Massachusetts as an "appendant towed at their stern." Although repeatedly ordered to remove, he remained, stubbornly refusing to vacate, until Sir Robert Carr secured him a present of 40 pounds, and threatened to eject him by force.[74]

As to the Duke of Hamilton's claim, the commissioners found that it embraced the best parts of both Rhode Island and Connecticut. When they visited Connecticut they informed the authorities there of the Duke's petition and that the matter had been referred to them. In answer the general court drew up a statement setting forth that the original grant to Lord Say and Sele of the same territory was prior to that to the Duke of Hamilton, that the latter had never made any attempt to settle or occupy his land, whereas they had been in quiet possession for thirty years, and that their rights to the land had recently been confirmed by the king. They, therefore, asked that the Duke of Hamilton's claim be silenced by the king. The court at the same time requested the commissioners to represent "unto his majesty" their allegiance and their "ready compliance with his royal

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[73] R. I. Rec., II, 60, 93.

[74] Ib., 94, 95, 132, 134, 137; N. Y. Doc., III, 158; Mass. Rec., IV (ii), 229.

will and pleasure" and asked the "continuance of the shines of his royal favor upon (their) mean beginnings." And as they had "presumed to put the name or appellation of New London" upon one of their towns they requested that it be made "a place of free trade for seven, ten or twelve years."[75]

Having concluded these proceedings with the three smaller colonies, the royal commissioners again, in the middle of April, approached Massachusetts. They did not, however, arrive there in a body but one at a time "in an obscure manner" so avoiding the "honorable reception" provided for them in Boston.[76] Prospects for a favorable termination of their business with this colony had not improved since their former visit. Soon after their arrival Cartwright described the colony as being "in a great uproar" with rumors that he was a papist, Carr was keeping a "naughty woman," and that Maverick was their professed enemy. The ministers and magistrates were holding a secret meeting. They have a better opinion of Nicolls, and, therefore, Cartwright urges him to spare eighteen days to come and aid them in Massachusetts.[77] Nicolls complied with the request and leaving New York, joined the commissioners in Boston by the first of May.

Thus it appears that the controversy with the government of Massachusetts which began on the 2d of May and continued for nearly a month,[78] was undertaken in no compromising spirit on either side. Each party was suspicious of the other. In their first communication with the general court the commissioners referred to the "slanders" circulated, that it was their intention to raise a tax of 5000

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[75] Trumbull, I, App. 530.

[76] Mass. Rec., IV (ii), 177.

[77] Cartwright to Nicolls, N. Y. Doc., III, 93. Cartwright had previously, in January, urged Nicolls to come to their assistance in New England, ib., 87.

[78] The last communication between the commissioners and the general court passed on May 26, Mass. Rec., IV (ii), 215. A letter to Secretary Bennet written on the 27th was signed by Carr, Maverick, and Cartwright. Apparently Nicolls had left for New York. N. Y. Doc., III, 96.

pounds a year for the king and to take away from the colony its civil and ecclesiastical privileges, and intimated that it was their intention, not as private men, but as "persons employed by his sacred majesty," to demand justice from the court against those who had raised, reported, or made them.[79] From the first they had, in accordance with the spirit of their secret instructions, attempted so far as possible to appeal over the heads of the magistrates and general court to the inhabitants of the colony. They had hoped by "insinuating" themselves and prejudicing the people to have some of the existing magistrates displaced. But before their departure to the three southern colonies, Cartwright wrote that there was no hope of getting a "good election," and suggested instead that they should call all the freemen together at the regular time for election.[80] Accordingly, on February 15, the day before they started for Plymouth, they had met with the governor and several magistrates at the former's house and requested that orders be given for the assembling of the freemen on election day so that "they might understand his majesties' grace and favor" to them. And as the magistrates declined to comply, on the ground that such a step would leave the remote towns defenseless against the natives, the commissioners themselves had notices sent out to several towns calling upon the freemen to present themselves at Boston on election day.[81]

The magistrates on their side approached the subject with no less determined spirit. Their line of defense had already been made clear in their petition and letters to England in the previous fall. They were resolved to stand

[79] Mass. Rec., IV (ii), 184; Danforth Papers, 55. In addition to the narrative of the proceedings with the commissioners prepared by the court and inserted in their records (IV (ii), 157-273), a number of the documents, together with notes on the debates which took place while the controversy was going on, are preserved in the Danforth Papers. These are printed in Mass. Hist. Soc. Coll., 2 s., VIII.

[80] N. Y. Doc., III. 87.

[81] Mass. Rec., IV (ii), 173, 174. To the court's objection Cartwright replied that the motion was so reasonable "that he that would not attend it was a traitor."

firmly on the platform furnished by the terms of their charter. Whether they were familiar with the conditions of the secret instructions, as is probable, or not, they felt certain that an attempt was being made, in spite of the protestations to the contrary, to interfere with the working of the charter as they understood it. In their petition they had quoted at length the terms of the commission giving the agents of the king authority to hear and determine appeals, asserted that this was contrary to their royal grant, and asked that the commissioners be recalled. Having failed in this, they were prepared to resist any attempt on the part of the commissioners to interfere with the course of justice within their jurisdiction. It mattered not that other colonies with equally comprehensive charter privileges, had admitted the right of the king, through his officers, to hear appeals from their courts of justice. They would not discuss the king's prerogative.[82] Their charter was a royal grant, it had been recently confirmed, and until it was distinctly overthrown or superseded, it was to them equally valid with any other act or grant of whatever nature that the king could make. And in all their dealings with the commissioners they were careful to maintain this position; they were the king's subjects, acting under the king's charter, and administering justice in the king's name. This was equivalent to asserting that the king had no authority to change or interfere with or inspect the justice administered under his own enactments. Indeed, while they were willing to take a qualified oath of allegiance to the king, they were careful to limit that allegiance with a declaration that it should not interfere with their duty toward the charter.[83]

The commissioners' dealings with the general court began on May 2, the day before election, while the magistrates were busy preparing for that event. Between that date and the ninth, the commissioners made known, in three

[82] See below, p. 142.
[83] Danforth Papers, 91.

separate communications, their letter of instructions with reference to Massachusetts.[44] There were twelve headings or subjects, and to most of these the commissioners, in communicating them, added some explanation or comment of their own. In these instructions, the commissioners were directed: (1) To express to the governor and magistrates the king's good will and his intention to preserve the charter. (2) To require aid for the conquest of New Netherland. (3) To communicate to the general court the king's good will and have that body made acquainted with the letters and orders from the king. (4) To require that an accurate map be made of the whole country. (5) To enquire into the relations of the colony with the Indians and how far they were under royal protection. (6) To enquire into the means employed for education both of the colonists and the Indians. (7) Without giving too ready attention to unsupported accusations, "to proceed in examination and determination" of cases where there was undoubted injustice. (8) Where the proceedings of the magistrates had been against equity and contrary to the charter, "to proceed according to justice after a due examination of all matters and circumstances." (9) To require a more complete answer to the royal letter of June 28, 1662, than had yet been given. (10) To apprehend any traitors that might be found within the colony and take the names of any persons who had sheltered them. (11) To inform the government of the colony of violations of the navigation acts, especially of the case of Thomas Deane in 1661, and to require that they be enforced. (12) To collect data in regard to the trade, population, products, and government of the colony.

To most of these enquiries the general court returned fairly satisfactory answers. The magistrates referred to the preparations they had made to send a force of two hundred men to aid in the conquest of the Dutch as an instance of their loyalty. A map of the country was being pre-

[44] Mass. Rec., IV (ii), 178-86, 189-94; N. Y. Doc., III, 51.

pared and they hoped would soon be ready; their relations with the Indians had been upright and for the most part peaceable and they offered to the inspection of the commissioners their own records as well as those of the confederation relating to that subject; an account of their schools and especially the college at Cambridge was furnished showing the amounts of money expended and the results obtained; as to the traitors they had supposed that Whalley and Goffe had left England prior to the act of parliament excepting them from clemency, yet when orders for their arrest came, although the regicides had then left the colony, they had taken measures to have them apprehended; statistics as full and accurate as might be expected were prepared regarding the government, industry, and population of the colony; and as to the navigation acts they were not conscious of having "greatly violated the same," orders having been given by the court for the enforcement of the laws; and in the particular case of Mr. Deane, the commissioners would find on examining the records that complete justice had been done.[85]

Regarding the king's letter of 1662, however, the answer was not so easy to make. The action of the general court at the time that letter had arrived, had been such as to place the magistrates in a very difficult position. Of the five commands then given to the colony, the court had at the time complied with but one, namely, to administer justice in the king's name.[86] Realizing this delinquency, after a delay of two years, when the royal commissioners had first appeared in the colony, the court had changed their laws on the admission of freemen so as to comply technically with the king's requirements. The three remaining orders were still ignored. Nevertheless, the magistrates now informed the commissioners that they had "endeavored formerly to satisfy his majesty's expectations therein." They declared their resolution to "bear faith and true allegiance

[85] Danforth Papers, 71; Records, 187, 198-203.
[86] See above, p. 51.

to his majesty, and to adhere to their patent," stating that their first governor, Matthew Cradock, had taken the oath of allegiance and that they had given order that the same be taken in the future by all officers and freemen. But the oath which their records prescribed for this purpose was one entirely different from that prescribed by parliament, and was so worded as to make the upholding of their charter a matter of equal importance with their allegiance to the king. As to the use of the Book of Common Prayer, they referred to their late petition to the king setting forth their objections to such usage, and added: "we conceive it will disturbe our peace in our present enjoyments." The commissioners on the other hand cited the recent letter from the king and chancellor as evidence that satisfaction had not been given. They pointed to the oath of allegiance into which the court had put "provisions not therein expressed; and, in short, would curtail the oath as (they did) allegiance, refusing to obey the king." Colonel Nicolls came into court and told the magistrates plainly that such an oath would not "be acceptable to his majesty." Referring to their order for the admission of freemen, he stated that he would like to "understand what is meant," that he might "misinterpret the word" and, therefore, desired that any "penman of it would interpret it."[m]

But the controversy was not to be settled on the question of answering the royal letter of 1662, or interpreting the orders of the court relating thereto. The seventh and eighth "instructions" submitted by the commissioners, involved the matter of hearing appeals. Along with these instructions they had presented a petition received by them from one John Porter, and an inquiry as to where the magistrates preferred to have the case tried, whether in Boston, Providence, or the King's Province. Porter had

[m] Danforth Papers, 75-76. Nicolls continued, "Abuse not the king's clemency too much. Remember that when the king had well weighed all the expressions in your last petition, and the temper and spirit of those that framed it, though he would not impute it to the colony, yet he was not pleased with it."

been convicted by the general court in Boston of disobedience to his parents and had been sentenced to jail, whence he had escaped and fled to Rhode Island. The recognition given by the commissioners to his complaints alarmed the magistrates the more because Porter was a person of generally bad reputation.[88] The court accordingly informed the commissioners that they "apprehended (their) patent and his majesty's authority committed unto (them) to be greatly infringed," and asked an explanation on the subject before giving in their answer. The commissioners then offered to confer with a committee of the magistrates, and convince them that their charter was "not in the least infringed." The meeting took place on the eleventh of May.[89] Each party insisted that it was acting according to orders of the king; the magistrates cited their patent, giving them full right to administer justice; the commissioners urged the authority delegated to them to hear appeals. Neither side would concede a point and hence no agreement could be reached. The commissioners went to the full length of their power, declaring that as they had a commission of oyer and terminer, they would decide cases without a jury, according to the laws of England, and would admit of new evidence. The committee answered that this would encourage "all sorts of persons formerly punished" to "hope for some reparation to be made to them," and would prove an "insufferable burden" so that they would prefer to return to England and live under the protection of the king "rather than be under the arbitrary determination of his commissioners whose rule is their discretion."

After this conference had broken up, on the same day, the general court gave its formal answer on the question of appeals. They cited their charter granting them full rights of government, and pointed out that the king's recent promise that it should be strictly observed was inconsistent with

[88] Mass. Rec., IV (ii), 216.

[89] The court appointed a committee of eight to meet the commissioners, among them being Bradstreet, Danforth, and Leverett. Rec., 195-7.

the "hearing and determining appeals and complaints" against them; yet, as they desired to be "doers of truth," they agreed to give such an answer regarding any particular complaints of injustice as would prove to the king that their actions had not been "such as evil-minded men would willingly represent them."[90] On receipt of this statement the commissioners resolved to test the matter. They asked the court whether it would "acknowledge his majesty's commission wherein (they were) nominated commissioners, to be of full force to all intents and purposes therein contained."[91] The next day the court replied by repeating their previous answer, adding, perhaps to divert attention, that they were now ready to take the oath of allegiance as prescribed by their charter. But the commissioners were not to be turned aside from their main object; they renewed their question and demanded a positive answer. The magistrates, however, would not give a straightforward answer which might involve them in a charge of treason. They replied: "We humbly conceive it is beyond our line, to declare our sense of the power, intent or purpose, of your commission; it is enough for us to acquaint you what we conceive is granted to us by his majesty's royal charter."[92] Annoyed by these "dilatory answers," each "more dubious" than the other, the commissioners proceeded without delay to test their authority in another manner. On the 23d they informed the court that they would proceed the next day at "nine o'clock in the morning at the home of Captain Thomas Breedon" to "sit as his majesty's commission to hear and determine the case of Mr. Thomas Deane and others, plaintiffs, against the governor and company, and Joshua Scottow, merchant, defendants," for injustice done Mr. Deane when he had tried to enforce the navigation laws in 1661. At the same time a summons was issued to Joshua Scottow to appear at the time and place men-

[90] Danforth Papers, 67; Mass. Rec., IV (ii), 199.
[91] Ib., 75; 204.
[92] Ib., 81; 207.

tioned.[83] The general court immediately refused to be made defendants before such a tribunal or to permit the case to be heard. They drew up a statement of their position, their objections to the course the commissioners were pursuing, and the evils it would lead to, concluding with the following order, addressed to the people of the colony: "In observance of our duty to God and to his Majesty, and to the trust committed unto us by his Majesty's good subjects in this colony, wee cannot consent unto, or give our approbation of the proceedings of the aforesaid gentlemen, neither can it consist with our allegiance that we owe to his Majesty to countenance any shall in so high a manner go crosse unto his Majesty's direct charge, or shall be their abettors or consentors thereunto. God save the King."[84] A copy of this resolution was sent to the commissioners. But, it being ignored, the court, at eight o'clock the next morning, had it proclaimed by sound of trumpet in several parts of the town.[85] The case was not heard and the royal commissioners were completely defeated. The next day they sent a statement to the court that they would waste no more labors, but refer the matter to the king, "who" they said, "is of power enough to make himself to be obeyed in all his dominions." The magistrates then informed them that the case of Thomas Deane would be taken up before the court the next day at nine o'clock, and invited them to be present at the hearing. The commission replied that this would be "an unheard of practice" inasmuch as the colony was a party to the dispute and could not act as judge. Thus ended the attempt of the royal commission to "reduce" Massachusetts.[86] On the day following this last

[83] Danforth Papers, 83; Mass. Rec., IV (ii), 208.
[84] Mass. Rec., IV (ii), 210.
[85] Letter of Carr and Maverick to Secy. Bennet, N. Y. Doc., III, 107. "Under Col. Cartwright's window, he being then lame of the gout at Captain Bredon's where we intended to have sit."
[86] They reported: "neither example nor reason could prevail with them to let the commissioners to hear and determine so much as those particular causes, which the king had commanded them to take care of." N. Y. Doc., III, 110.

communication, Nicolls went back to New York and a few weeks later the other three commissioners proceeded to New Hampshire.

The provinces of New Hampshire and Maine had for a number of years been under the government of Massachusetts, although the heirs of John Mason and Ferdinando Gorges had never abandoned their claims to propriety there. The king's instructions to the commissioners made no mention of these provinces. Yet before leaving England they had been charged with various items of business which required their presence there. Mason had made Colonel Nicolls his agent and attorney for New Hampshire and had entrusted him with the papers relating thereto.[97] On June 8, 1664, the king's attorney-general had made a report affirming Gorges' proprietorship in Maine. Three days later, letters in the king's name were directed to the government of Massachusetts and the inhabitants of Maine, requiring the one to immediately withdraw all officers and cease exercising jurisdiction within the territory, and the other to render obedience to Gorges or his agent or immediately show cause for the contrary.[98] An agent for Gorges, John Archdale, accompanied the commissioners who also brought these letters from the king. As soon as they had arrived in America, Archdale had proceeded to Maine, published the king's letter, and began to stir up opposition to Massachusetts.[99] Securing the support of a portion of the inhabitants he directed a letter to Massachusetts calling upon that colony to surrender its claims to Maine, in obedience to the king's orders. On November 30, 1664, while the royal commissioners were still engaged in the reduction of New Netherland, the governor and council answered this letter. They asserted that Maine belonged to their colony by patent, and that it was the king's pleasure that they have opportunity to make answer to the claim of Gorges before the

[97] Joseph Mason to Robert Mason, Colonial Papers, 1665, July 16.
[98] Colonial Papers, 1664, June 8, 11; Hutch. Coll., 385.
[99] Williamson, I, 414.

question was definitely settled, and that, therefore, no commissioners or agents, other than their own, ought to exercise any authority in Maine.[100]

In fact the government of Massachusetts had not the slightest intention of withdrawing its authority from either New Hampshire or Maine. As soon as the general court met in the following spring, in the midst of the controversy with the royal commissioners, the magistrates took pains to reassert that authority in no unmistakable terms. On May 3, new officials were sent into both provinces to keep order and see that the regular laws were enforced; should they be hindered or interfered with by any persons, they were instructed to have such persons arrested and brought to trial.[101] In preparing the map required by the commissioners the court included the territory along the coast as far as Casco Bay, and accompanied its presentation with an elaborate defence of their claims, in which, as usual, they professed to adhere strictly to the terms of the charter. The attempt resulted in an excellent example of Massachusetts sophistry. According to the charter the northern boundary of the colony was to be three miles northward of the Merrimac River.[102] In determining this line the government of Massachusetts had surveyed the river to its head waters in Lake Winnipiseckik and run a straight line from there east to Casco Bay, nearly one hundred miles north of the mouth of the Merrimac. The boundary thus established included all of the settlements in New Hampshire and nearly all of those in Maine. Such a line was claimed as necessary to "comprehend the breadth and retain the lattitude of the patent's line," for "if it did wind crooked with the river it would lose both breadth and latitude at the sea compared

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[100] Mass. Rec., IV (ii), 247.

[101] Ib., 147, 245, 248.

[102] "Or to the northward of any and every part thereof and all lande and hereditaments whatsoever lying within the limits aforesaid north and south in latitude and breadth and in length and longitude of and within all the breadth aforesaid throughout all the main lands there from the Atlantic to the South Sea."

with what it hath at the river's head."[103] The magistrates denied that Ferdinando Gorges had expended any such sum as twenty thousand pounds in Maine, or that they had been the first to interrupt his authority there. They claimed that their own charter antedated the grant to Gorges by several years, and, therefore, should be first satisfied, that their failure to establish this complete boundary when the colony was first planted was owing to the expense it involved and in no wise invalidated their rights, and they presented the affidavits of several Indians and surveyors who had located the head waters of the Merrimac River and the line from there to the coast.[104]

When the commissioners proceeded into New Hampshire, they were handicapped by the absence of Nicolls who as the representative of Mason should have been present in person. Nevertheless, learning that Massachusetts had originally asserted authority only to a point three miles beyond the Merrimac River, they concluded that the exercise of jurisdiction beyond that line was usurpation, maintained by terrifying the people into submission.[105] They then proceeded, by similar methods, to overthrow the authority of the usurper. With considerable difficulty, threatening violence and destruction to such as opposed them, they succeeded in obtaining a few signatures to a petition urging that the province be taken into the protection of the king.[106] Acting upon this petition as an expression of the voice of

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[103] Mass. Rec., IV (ii), 236-7; . . . "two north lines the one straight the other crooked is altogether incongruous to the patent. The words 'all lands hereditaments etc.' and 'all the breadth,' the word 'all' thus repeated can imply no less than to comprehend all the lands in the line and latitude and breadth aforesaid." The words "all lands and grounds etc. lying within the said bounds and limits . . . confirm that one straight line must be continued from the said river head to both the seas named or some part within the said limits will be left out."

[104] Mass. Rec., IV (ii), 240-42.

[105] Commissioner to Secretary Bennet, N. Y. Doc., III, 101; Colonial Papers, 1665, Dec. 14.

[106] Mass. Rec., IV (ii), 266; New Hamp. Prov. Papers, I, 277. The best portion of the people refused to sign. The instigator was Abraham Corbett. See below.

the people, the commissioners proceeded to release the towns from the jurisdiction of Massachusetts, which, they promised, should not come further than the ancient "bound house," and to appoint justices and magistrates to carry on the government in the king's name.[107] On July 9, the circular letter from the king requiring the colonies to be put in a posture of defense against an attack by the Dutch reached the commissioners.[108] They made this the pretext for an order to the inhabitants of Dover, Portsmouth, and Exeter, to assemble and hear the king's commands. Immediately upon hearing of this order the people of Portsmouth dispatched a messenger in hot haste with a letter to the governor of Massachusetts informing him of the action of the commissioners and asking for instructions. The messenger arrived at the home of Governor Bellingham in Boston about midnight, July 11. The same night Bellingham sent word to the deputy governor and several magistrates to meet at his house the next day. At this meeting an order was addressed to the constable in Portsmouth directing him in the king's name to "warn all persons so assembling to depart home to their respective places" and to report the names of those refusing to obey, to the general court. While this prompt action did not prevent the commissioners from holding their meetings and delivering the king's letter, it did result in keeping many people away, thus defeating the object of the commissioners which was by public meetings to get the assent of the populace to their acts.[109] The governor and council then addressed a note to the commissioners complaining of their conduct in holding meetings in the towns, pointing out that in their instructions they were "directed by his Majesty in a more orderly method," and asserting that the general court held itself bound to keep peace.[110] In answer, the commissioners stated that they

[107] Mass. Rec., IV (ii), 272.
[108] Letter to Bennet, N. Y. Doc., III, 101.
[109] New Hamp. Prov. Papers, I, 270, 271, 273, 275.
[110] N. Y. Doc., III, 98.

were driven to this course of action by the proceedings of the general court in cutting off further proceedings in Boston by "blare of trumpets." They have found that for twelve years Massachusetts acknowledged her boundary to be three miles north of the Merrimac River which shows her present occupation of the territory to be wrong. Their orders to the town of Portsmouth were based on the king's warrant, and the magistrates of Massachusetts are commanded not to contradict orders so given. They informed the governor that his warrant to the constable of Portsmouth gave ground for the fear that he was ready to rebel against the king and warned him not to go too far. "Striving to grasp too much may make you hold but a little. Tis possible that the Charter which you so much idolize may be forfeited."[111]

A few days after receiving this answer the governor and council, hearing also of the circulation of the petition and that the country was being possessed in the name of the king, issued orders for a meeting of the general court to be held on the first of August. When the court met a letter was sent to the commissioners requesting a meeting to discuss the affairs of the northern provinces, but an unfavorable reply having been received from Carr, the magistrates and deputies proceeded to take action on their own account. A committee consisting of Danforth, Lusher, and Leverett was appointed to go into New Hampshire and Maine, summon the people who had been disturbing the government there, proceed against them, and settle the government of the towns by appointing constables and holding courts.[112] This committee appears not to have set about its work until near the beginning of October, after the commissioners had passed on to Maine. But as soon as it did appear in New Hampshire all prospect of the success of the royal commission there vanished. The leading people of Dover, Exeter, and Portsmouth came forward and disclaimed,

[111] N. Y. Doc., III, 99; Commissioners to Gov. Bellingham, July 16.
[112] Ib., 100; Mass. Rec., IV (ii), 278.

under oath, any part in the petition to the king or the acts of his commissioners. The petition, they asserted, was obtained for the most part in a secret and underhand manner and received but few signatures. A warrant was issued for the arrest of Abraham Corbett, the chief instigator of these proceedings, and the authority of Massachusetts was restored in all the towns. When the commissioners made their report to the king they were compelled to admit that they had left New Hampshire as they found it, in the possession of Massachusetts.[113]

In Maine the commissioners met with somewhat better success. They disregarded both the right of Gorges and the authority of Massachusetts. A petition was circulated setting forth that the people had long been distracted by the conflicting patents and claims, that they feared worse entanglements if Gorges' propriety was recognized, and asking that they be taken under the king's government without dependence on any patent. Some signatures were obtainel from the party of royalists and those dissatisfied with Massachusetts; others were frightened into signing by the same means as had been employed in New Hampshire.[114] The commissioners then received the inhabitants "into his majesties more immediate protection and government" and forbid either Gorges or Massachusetts "to molest any of the inhabitants of the province with their pretences or to execute any authority" there. As soon as this had been done they appointed justices and magistrates for all the towns and gave them authority to hold courts and administer justice. These justices, together with deputies to be chosen from the towns, were authorized to meet as an assembly at York which was designated to be the seat of government. About two months were spent in the province. Before they left they had declared void all land titles derived from Indian deeds or the Lygonia patent.[115]

[113] Records, ib., 267-73; N. H. Prov. Papers, I, 280; N. Y. Doc., III, 101; Colonial Papers, 1665, Dec. 14.

[114] Colonial Papers, 1665, July 26; Mass. Rec., IV (ii), 249; Williamson, I, 415.

[115] Records, ib., 250; N. Y. Doc., III, 101; Williamson, I, 424.

These proceedings appear to have been in violation of the king's letter of June 11 affirming Gorges' rights. Yet the commissioners justified their acts on the ground that the people were tired of the contentions between Massachusetts and Gorges and that such a course was necessary in order to secure peace within the province. They asserted that more care was necessary and better government, or the territory would never be well peopled or well cultivated.[116] For some time the inhabitants quietly submitted to the new government. When the members of the committee, sent by the general court of Massachusetts to protect its interests in the northern provinces, arrived at the Piscataqua on the borders of Maine, they were warned back by Sir Robert Carr who ordered them to proceed no further.[117] Fearing that an attempt to enforce their authority in Maine might lead to bloodshed, Danforth and his companions turned back. And for more than two years the province of Maine continued under the authority established there by the royal commissioners. But if the government which these emissaries found there was loose and distracted, that which they left proved to be even more inefficient. The justices soon became unpopular and their efforts to dispense justice unavailing. Even while acting in the name of the king they were guided by the laws and customs of Massachusetts. The last assembly under the commissioners' arrangement was held in 1668. After this, general confusion prevailed, and, a portion of the people appealing to Massachusetts for protection, that colony resumed its former jurisdiction.[118]

From Gorges' province the royal commissioners proceeded eastward into the territory beyond Pemaquid which had been included in the grant to the Duke of York. Here

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[116] N. Y. Doc., ib. There was some ground for this complaint. The towns were widely scattered and separated by considerable distance from Boston. For two or three years their deputies had not appeared in the general court at that town. Mass. Rec., IV (ii), 2, 41, 72, 100.

[117] N. Y. Doc., III, 107; Mass. Rec., IV (ii), 273; Colonial Papers, 1665, p. 335.

[118] Records, ib., 370-2, 400; Williamson, I, 425, 436.

a government was established in the name of the Duke, resembling that which had been provided for Maine. The territory was erected into a county and the name changed to Cornwall. But here also their arrangements were altogether inadequate. They reported the country as consisting of three small plantations, composed mostly of fugitives from justice, and fishermen, who "have as many shares in a woman as they have in a fishing boat."[119] For such a community it was not deemed necessary to provide a system of legislation, trial by jury, military defence, or the support of religion.

With these acts in Maine and the county of Cornwall, the collective proceedings of the royal commissioners ceased. Soon after returning to Boston, Cartwright sailed for England carrying the official papers and report of the proceedings.[120] Carr remained in Boston until December, 1665. He then went to Rhode Island where he spent the remainder of the winter. Being anxious to remain in the colonies he requested that the territory in Delaware for which he had "risked his life" be confirmed to him. Failing in this, he asked for a grant in the Narragansett country or to be made governor of Maine. Later in the year he went to New York and in the Spring of 1667 sailed for England.[121] Maverick, after spending more than a year in Massachusetts, made several journeys between that colony and New York in pursuit of his own and the king's interests, and finally settled down at the latter place in a house on the "Broad Way" given him by the Duke of York.[122]

In estimating the work of this commission, attention should be directed to the objects for which it had been sent out. The reduction of New Netherland was its first and most important mission, and this had been successfully accom-

[119] Colonial Papers, 1665, Dec. 14; Williamson, I, 421, 423. The country had previously been called Sagadahock or New Castle.
[120] N. Y. Doc., III, 106.
[121] Ib., 109, 114, 115; R. I. Rec., II, 133, 134.
[122] N. Y. Doc., III, 116, 160, 173, 185.

plished.[123] As has already appeared, their work in New England had, in more than one way, been sacrificed to that end. Consequently the outcome there had not been so satisfactory. Some questions, such as the boundary disputes among the colonies to the south of Massachusetts, were settled temporarily in such a manner as to put an end to the controversies for the time being, and, in some cases, so as to furnish the basis upon which the boundaries were permanently arranged. Thus, the Narragansett country being put virtually under the jurisdiction of Rhode Island, the bounds between that colony and Massachusetts and Connecticut were fixed almost exactly as they have remained ever since.[124] The principle also, upon which the line between New York and Connecticut was to be adjusted, was agreed upon although the line itself was not accurately located.

But in virtually everything that concerned Massachusetts the effort to make a definite settlement proved futile. The magistrates of this colony, backed up by the elders and ministers of their churches, had met the royal commissioners on their own ground, namely, the right of the king to interfere with the charter as that document was understood in the colony, and had successfully resisted every attempt to divert their government from the channels in which they had been accustomed to see it move. They had refused to admit the oath of allegiance in its unqualified form, to allow the use of the Book of Common Prayer, or permit appeals from their courts of justice to be carried to England. The failure to reach an understanding on any of these points was due in part at least to the personnel of the commission.

[123] Writing to Nicolls in April, 1665, Cartwright had said: "I cannot deny the reducing the Dutch and visiting the English Colonies to be 2 distinct things, and the first to be of the greatest consequence." N. Y. Doc., III, 94.

[124] The line between Rhode Island and Plymouth could not be agreed upon, the former colony claiming, "a thread of land three miles broad" on the east shore of Narragansett Bay which Plymouth would not agree to. The provisional settlement was in favor of Plymouth. R. I. Rec., II, 128.

The colonists were naturally suspicious of a man whom they had had occasion to punish for various misdemeanors and who had carried extravagant reports of their disloyalty to England. Nor could men of Puritan convictions be expected to relish changes in their religious establishment when suggested by men who were suspected of popery, who were accused of losseness in their private morals, and who were ready to denounce them as traitors on the least provocation. Had all the commissioners borne the character of Nicolls their reception in Massachusetts might have been different. Unfortunately, owing to the supreme necessity for his presence in New York, Nicolls was able to give but little attention to the affairs of New England and consequently the work of collecting information, observing conditions, and adjusting disputes, fell to the three commissioners least capable.

Not less unfortunate was it that in their anxiety to find some flaw in the government of Massachusetts, the commissioners should listen to the complaints of men who were known outlaws or disturbers of the peace in several colonies. The first representative of this class who secured their intervention was John Porter who had been convicted of blasphemy in public, disobedience of parents, and denying the authority of the magistrates, and had been committed to jail whence he had escaped and taken refuge in Rhode Island.[128] The attempt to give Porter a new hearing before the commissioners was the first point about which the general court and the commissioners came to a direct disagreement. The alarm of the colonists was increased when the appeal of Gorton and his followers was pre-

[128] Porter had first been committed to the house of correction at Ipswich. Released, he was again complained of, had a regular trial, and was sentenced to stand on the gallows with a rope about his neck, receive a severe whipping, and committed to the house of correction. From there he had escaped. The punishment was not unusual, nor out of keeping with the law and custom of the day. Mass. Rec., IV (ii), 216.

sented. The magistrates justly urged that if such appeals as these were allowed, "all sorts of persons formerly punished would now hope for some reparation to be made them." The most that the commissioners should have attempted in such cases would have been to make a thorough investigation to determine whether the judgments against these persons had been made according to due process of law and on sufficient evidence. For such an examination the general court offered all assistance and prepared to open its books of records to inspection. But this would not suffice. The commissioners must needs have a new trial with themselves as judges, without a jury, in which new evidence would be admitted, and the decision based on the laws of England.[127] Such a course of procedure in these cases was not only to question the right of the colonists, clearly granted in their charter, to enact laws, and the competency of the courts established under the charter to decide cases arising under those laws, but also to throw the whole administration of the government into utter confusion.

The appeal of Thomas Deane was of somewhat different character. In this case the colony as a corporate body was charged with neglect in connection with the administration of the navigation acts.[128] The petitioner, Thomas Deane, claimed that on representing his case in England he had been "charged by a great minister of state that the matter should not be heard but by the king's commissioners." Inasmuch as this was a question of the enforcement of a

[126] Most of the events which Gorton complained of dated back over twenty years. He had disturbed and troubled three colonies. "Whipt in Plimouth patent, whipt and banished from Rhode Island, imprisoned and only banished out of Massachusetts." Mass. Rec., IV (ii), 256. The principal charge against him in Massachusetts was, "a blasphemous enemy of the religion of our Lord Jesus Christ . . . and also of all civil authority among the people of God." Records, II, 51. Plymouth accused him of "stirring up the people to mutynie in the face of the court." Ply. Rec., I, 105. In Rhode Island, Roger Williams wrote of him, "Mr. Gorton having fouly abused high and low at Aquidnecke is now bewiching and maddening poor Providence." Mass. Rec., IV (ii), 256.

[127] Mass. Rec., IV (ii), 197.

[128] Ib., 35, 208.

recent act of parliament, its determination would appear to have been entirely within the jurisdiction of the king's commissioners and their hearing the case not in violation of the privileges of the colony. But whether alarmed by the nature of the other appeals, or because of a stubborn determination to acknowledge no authority within the jurisdiction not specified in the charter, the magistrates made no distinction between this and the other appeals. They offered, themselves, to see that full justice was done to the petitioner, and summoned Deane to appear and bring his complaint before the court, which, however, he, pleading the order of the "great minister of state," refused to do.[129]

Having completed their progress through the colonies and having failed to secure the submission of Massachusetts it remained for the commissioners to report their acts to the home government and await further instructions. During their journeys from colony to colony they had kept the secretary of state informed as to the state of feeling among the people and had related their chief proceedings. Their formal report was placed before the ministers in London under date of December 14, 1665.[130] In this report and the letters which had preceded it the commissioners spoke very favorably of their reception in Plymouth, Rhode Island and Connecticut. The colonists there desired to thank the king for sending them; justice was administered in the king's name; admission to the body of freemen and to religious congregations was opened to all; and no laws were found derogatory to the king or in opposition to those of England. In Plymouth and Connecticut few complaints were heard and these were trifles. More complaints were heard in Rhode Island but these were freely submitted to the adjudication of the commissioners, even the governor being willing to be tried before them. And they also mentioned that all the colonies had complaints against Massachusetts

[129] Mass. Rec., IV (ii), 219.

[130] Colonial Papers, 1665, Dec. 14; Letters from the Commissioners to Secretary Bennet, May 27, July 26, Nov. 20, N. Y. Doc., III, 96, 101, 106.

and that they constantly heard of the designs formed by that colony to defeat their work. They informed the minister of the establishment of the King's Province, and the adjustment of boundaries. Regarding the Duke of Hamilton's claim they stated the answer and petition of Connecticut, with the information that it included the greater part of Connecticut and Rhode Island. Regarding the northern provinces, New Hampshire and Maine, they reported that the people were in favor of direct government by the king. They attempted to assert the king's authority, but in New Hampshire were prevented by a committee of the general court. Massachusetts has determined to keep that province "though the king write never so often to the contrary." The people of Maine were thankful for their intervention and after the government had been reorganized, asked that they might have Sir Robert Carr for their permanent governor.

Regarding Massachusetts the commissioners reported more at length. The good example of the southern colonies had no effect there. The magistrates would not permit the commissioners to hear a single case, asserting that it was a breach of privilege and stopping proceedings "by sound of trumpet under Colonel Cartwright's window." In this way they silenced about thirty petitions. They have changed the law about admission to the body of freemen so as to comply with the king's order; but a non-church-member to be admitted must be taxed at ten shillings which not more than three in a hundred do pay, whereas church members are admitted whether they are tax payers or not. Attendance at church is enforced by a fine of five shillings. They have many laws derogatory to the king which have been referred to them for amendment but which have not yet been changed. The regicides, Whalley and Goffe, were protected by the people, and Captain Gookin is reported to have brought over and managed their estates for them. For this reason the commissioners attempted to seize for the king a large number of cattle in the King's Province

belonging to Gookin, but the latter refused to answer their summons for a hearing of the case and so nothing was done. The magistrates stand on the charter, and say that so long as they pay one-fifth the gold and silver found "they are not obliged to the king but by civility." They hope by writing to tire out the king, being able to hold out in this way, seven years, and are heard to say, who knows "what may be the event of the Dutch Warr." They gave much aid to Cromwell and asked to be declared a free state. They have often used the expressions "this state," "this commonwealth," and now believe themselves to be so. This colony has engrossed the whole trade of New England. There is a college at Cambridge; "it may be feared that the college may afford as many schismaticks to the church, and the corporation as many rebels to the king, as formerly they have done if not timely prevented." There are many loyal people who petitioned from the first for submitting to the commissioners and compliance with the king's order, but they were ignored. These people say they "had rather suffer as they doe than take up arms" against their brethren. The best course is for the king to "take away their charter which they have in severall ways forfeited, as King Charles I was about to do a little before the Scottish war in 1636 or 1637." "But this without a visible force will not be affected." And if they were assured that they would "not be tyed to religious ceremonies" the majority would not object to a change in their government. "Without this course it will be impossible for the King ever to attain those two ends mentioned in our private instruction. If His Majesty should now let these people rest, having so much declared themselves against his authority over them," the loyal ones will never again dare speak and other ill consequences will follow.[121]

Meanwhile the colony on its part had not been silent. Immediately after the conclusion of the controversy with

[121] Letters to Bennet, N. Y. Doc., III, 102.

the royal commissioners in May, Governor Bellingham had answered the king's letter regarding the jurisdiction in Maine. He wrote to Secretary Morrice that on the best information obtainable the general court was convinced that that province was within their bounds, and that their patent was granted over eleven years prior to that of Gorges.[132] At the same time the magistrates replied to the king's answer to their former petition. "We cannot acquit ourselves of whatever transgressions the petition contained by laying it upon the contrivance of some few, it being the action of the General Court upon such considerations as our weakness then enabled us unto." But, they continue, referring to the commissioners, "their actings since have sufficiently showed that our fears were not causeless." They have sequestered estates of the king's subjects, protected notorious malefactors, and "summoned our Governor and Company * * * to answer before them to the complaints of particular persons within our own jurisdiction, which tends not only to lay prostrate at once the whole authority of this government and the administration thereof, but also abridges us of the native privileges of Englishmen." The magistrates complain that Maverick has called them "traitors again and again, and threats destruction" to them. They answer the charges against them one by one, and conclude by thanking the king for his assurances that their charter will be preserved.[133] The court at this session also resolved to send the king a present, "in the best commodity that may be procured in this his colony * * * to the value of five hundred pounds."[134] A narrative was drawn up setting forth the entire transaction with the commissioners and containing the full answers of the court to all the demands made upon them, "for the clearing the Massachusetts colony, where they have not fully concurred with the proposals and mandates of his majestie's commissioners,

[132] Bellingham to Morrice, Colonial Pepers, 1665, May 30.
[133] Colonial Papers, 1665, May 31.
[134] Mass. Rec., IV (ii), 150.

from these aspersions of disowning and disobeying his majestie's authority so often reflected on by all his majesty's said commissioners."[135] In the following August this narrative was forwarded to England, together with another petition from the court. In this latter document they assert that Nicolls, "had not his hand in many things that are grievous to us, and we think would not," but that the three other commissioners have violated their instruction and have gone "wee believe, very much against your gracious disposition and inclination" so that the good ends to be obtained in sending them have been frustrated and instead, "your poor subjects threatened with ruin," their government interfered with, the Indians incensed against them, their neighbors animated against them, their bounds reduced, and the unity of the colonies discountenanced. They acknowledge a just dependence; but maintain, that "to be placed upon the sandy foundation of a blinde obedience unto that arbitrary, absolute, and unlimited power which these gentlemen would impose upon us, * * this, as it is contrary to your majestie's gracious expression, and the liberties of Englishmen, we can see (no) reason to submitt thereto." The designs of some to set the colonies "into the flame of contention and confusion" cannot bring any honor to the king. They are willing and hope they are able to clear themselves of any complaints brought against them.[136]

With these reports before the English ministers it was incumbent upon them to decide whether they would support the acts of the commission or permit the colony to have its way. By the spring of 1666, Cartwright had arrived in England and was able to give his personal testimony before the council. The necessity for a prompt decision was at the same time urged by Col. Nicolls, who wrote, "all the other colonies are at a stand to see what reproffe His Majesty will send over."[137] But Clarendon appears to have

[135] Mass. Rec., IV (ii), 219. This narrative covers 116 pages in the Massachusetts Records.

[136] Ib., 274, 292.

[137] Nicolls to Arlington, April 9, 1666, N. Y. Doc., III, 114.

been undecided. "I know not what to say," he wrote, "of the demeanor of the Massachusetts Colony, only that I am very glad that the other Colonies behave themselves so dutifully."[128] That minister was already losing his hold upon the direction of state affairs and it is not possible to say how far he was responsible for the course now adopted. To the three southern colonies, identical letters were written on April 10, by Secretary Morrice in the king's name, thanking them for their "dutifulness and obedience." The king assures them that their conduct "doth of itself most justly deserve (his) praise," yet it is "sett off with more lustre by the contrary deportment of Massachusetts." He, therefore, assures them that he will "never be unmindful" of their behavior and will on all occasions "take notice of it to (their) advantage."[129] The letter to Massachusetts, written in the same form and on the same date, was quite different in tone. After examining the reports the king, Secretary Morrice states, has found that those who govern the colony, "doe believe that his Majesty hath noe jurisdiction over them, but that all persons must acquiesce in their judgments * * * and cannot appeale to his Majesty, which would be a matter of such a high consequence as every man discerns where it must end." They have been wanting in "duty and respect" to the commissioners, and the king has accordingly declared his "just dislike thereof." He "thinks fitt to recall his royal commissioners" in order that they may report more in detail and that he may pass his final judgment thereon; and, that there may be no question about his being willing to hear both sides, he commands the colony "to make choice of five or four persons to attend upon his Majesty, whereof Mr. Richard Bellingham and Major Hathorne are to be two." In the meantime the colony is commanded not to interfere in any way in the government of Maine or disturb the bounds of the several colonies as arranged by the commissioners, and to set at liberty all per-

[128] Clarendon to Nicolls, April 13, ib., 116.
[129] Hutch. Hist., I, App., 465.

sons who have been imprisoned for petitioning the said commissioners.[140]

The recall of commissioners at this point was thus not intended as an admission of their defeat or as putting an end to the controversy. The scene of action was merely shifted. Instead of giving the commissioners additional instructions, approving or disapproving their actions and providing them with the means of enforcing their orders, they were called in, and the issues were to be settled by dealing with agents of the colony. The proceedings of the commissioners were in substance approved. Clarendon wrote, they "have in truth done all they ought to doe, at least as much as they are supposed to doe."[141] Nevertheless, this was a weak method of conducting the controversy. Unless the event of Massachusetts refusing to send the agents required was provided for in the king's plans, and unless it was fully resolved to carry out those plans promptly, the impression would be given that the recall of the commissioners amounted to a disapproval of their acts and that the matter would be permitted to drop. As a matter of fact this was exactly what occurred. The colony refused to send the agents, the matter was not at once followed up in England, and the Massachusetts' magistrates soon gave out the impression that they had won a decided victory. In November, 1666, Nicolls wrote, "the grandees of Boston are too proud to be dealt with, saying that his Majesty is well satisfied with their loyalty and hath recalled both his commission and disgraced his Commissioners."[142]

It is probable that Clarendon was not altogether responsible for this turn in the controversy with Massachusetts. The tone of his letters indicates that he was, even in 1666, losing his hold upon the management of affairs of state. But the failure to carry out a consistent policy toward the New England colonies at this time, was not due to the de-

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[140] Hutch. Hist., I, 466.
[141] Clarendon to Nicolls, N. Y. Doc., III, 116.
[142] Nicolls to Arlington, N. Y. Doc., III, 167.

cline of Clarendon's influence so much as to the fact that the attention of the English ministers and the resources of the English kingdom were engaged in another direction. The attack on New Netherland had, as was foreseen, provoked a war with Holland. And as the war began, so it was conducted throughout by the English, as a war of colonial conquest. Not only were the colonies, from New England southward, ordered to put themselves in a state of defense against the Dutch, but plans were elaborated between the ministers and the colonial governors "for rooting the Dutch out of the West Indies." Tobago, Berbice, and Curacao, were to be attacked, and it was believed that the name of the Dutch would, "ere three months expire, be forgotten in the Indies."[143] When later France joined with Holland against England, Canada was added to the list of conquests to be made. For this colonial extension the aid of the colonies themselves was required. Just prior to the recall of the commissioners, the king had ordered the New England colonies to "damnify the French to the utmost of (their) power from (their) adjacent Plantations."[144] Massachusetts and Connecticut were ordered to consult with Sir Thomas Temple, Governor of Nova Scotia, about the conquest of Canada.[145] And when, at the beginning of 1666, the French began the attack by invading the northern part of New York, Nicolls wrote to Connecticut and Massachusetts urging this as an excellent opportunity to carry out the king's suggestion and rid themselves of their troublesome neighbor to the North. If Massachusetts would furnish one hundred and fifty men and Connecticut a proportionate number, he believed the French could be entirely cut off.[146] But not only was the aid of these colonies requested against the enemies on their own borders; in the following August, the king asked them to send assistance

[143] Colonial Papers, 1665, Feb. 16, Nov. 16.
[144] Ib., Dec. 5.
[145] Ib., 1666, Feb. 22; Danforth Papers, 102; Conn. Rec., II, 514.
[146] N. Y. Doc., III, 118, 120.

to his fleet in the West Indies which was in a precarious condition. "Wee cannot," he wrote, "as yet finde fitte to spare them those supplyes from hence that are necessary." Considering the importance of the island plantations, the colonies were, therefore, asked to join together to devise "some fitt number of forces such as (they could) best spare to be speedily sent to the reliefe and defense of the said Caribee Islands."[147]

While the English government was in the mood to "request" assistance from its stubborn dependency and was not able to "spare supplyes" for its war fleets, the likelihood was not great that it would make any move which would unnecessarily antagonize that dependency. If in 1661 Clarendon had desired to await a better settlement of the affairs of the kingdom before calling Massachusetts to account, he had not in any way improved the opportunity. But the crippling of the Dutch trade and the destruction of Dutch colonies was far more important in his eyes, and those of the king, than the enquiry into the conduct of Massachusetts. So the people of that colony understood the matter. While the Dutch war continued they felt secure. They thanked the king for warning them of the danger, put their coasts in a state of defense, and reorganized their militia.[148] They had also furnished assistance for the conquest of New Netherland. But both Connecticut and Massachusetts, after consulting with Sir Thomas Temple, declined to undertake the conquest of Canada, giving as their reasons, the danger of a rising on the part of the Indians within their own border, the great distance they would be required to march, and the reported strength of the French forts.[149] Nor is it likely that they saw any advantage to themselves in the transfer of Canada from French to English Dominion. Massachusetts, however, sent to England

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[147] Arlington to Connecticut Colony, Aug. 28, 1666, Conn. Rec., II, 515.
[148] Mass. Rec., IV (ii), 276; Conn. Rec., II, 21, 45.
[149] Mass. Rec., ib., 316; N. Y. Doc., III, 120, 137.

a ship load of masts which arrived in time to be of service before the close of the war. And while the colonies were unable, owing to lack of shipping and ammunition, as well as soldiers, to go to the assistance of the Caribbee Islands, in the following year, 1667, Massachusetts raised a voluntary subscription of provisions for the relief of the fleet there, which Governor Willoughby reported to have arrived just in time to prevent great disorders among the sailors and soldiers.[150]

The treaty of Breda, which settled the war, is considered to have been favorable to England. While Acadia was given up to the French, New York was retained by England, and Dutch interference with the trade of the American colonies was at an end. But in the pursuit of this success, Clarendon's original plans for the chastisement of Massachusetts had been entirely forgotten. Immediately on the recall of the royal commission, that colony began to assume even a more independent attitude than before. The king had commanded the colony to send agents to England, and to set at liberty persons imprisoned for aiding the commissioners. And Clarendon had assured Nicolls that if they did not obey the king's orders, they would have "cause to repent it. For His Majesty will not sett downe by the affronts which he hath received."[151] But about the same time that the king and his ministers were thus fulminating against Massachusetts the general court of that colony was quietly taking its vengeance on Abraham Corbett of New Hampshire, who had been arrested and thrown into prison, because of his zeal in circulating a petition asking the protection of the king. In May, 1666, Corbett was tried and found guilty "of a seditious practize stirring up of sundry of the inhabitants of the place where he lives to discontent against the laws and government here established," and of being "in his course and practize the cause of much trouble to the peace of his neighbors and by keeping of a

[150] Mass. Rec., ib., 318, 327, 345, 347; Colonial Papers, 1672, April 8.
[151] N. Y. Doc., III, 116.

house of common entertainment is a seminary of much vice and wickedness." For this somewhat vague offense he was fined 20 pounds and costs, put under bond of 100 pounds to keep the peace, forbidden to sell any wine or liquor, and deprived of the right to hold any office during the pleasure of the court.[182] In September following, the king's letter was handed to the magistrates by Maverick, who was still in Boston.[183] It produced great excitement for the time being. A meeting of the court was called and several days were spent in prayer. The answer was debated at length in the council. Bradstreet and Dennison took the lead in urging a compliance with the king's order; Willoughby, Bellingham and Hathorne were against such a measure. Petitions signed by upwards of one hundred and seventy-five freemen were sent in from Boston, Ipswich, Salem, and Newbury, requesting that the persons, required, be sent to England, "to clear the transactions of them that govern this colony * * * from the least imputation of so scandalous an evil as the appearance of dissafection or disloyalty to the person and government of their lawful prince and sovereign." Bradstreet argued: "many of them that have estates to send to England are afraid they will suffer there if nothing be done." Willoughby answered, "we must as well consider God's displeasure as the king's; the interest of ourselves and God's things, as his majesty's prerogative * * * for if the king may send for me now, and another tomorrow, we are a miserable people."[184] The matter was carried over to the next meeting of the court in October at which the chief petitioners were ordered to appear.[185] Here the debate was renewed with vigor. Some were for answering the king's requirement in full, others for ignoring it completely, while a mid-

[182] Mass. Rec., IV (ii), 293, 304; N. Y. Doc., III, 108, 109.
[183] N. Y. Doc., III, 160; Mass. Rec., ib., 315.
[184] The record of this debate is preserved in the form of notes, in the Danforth Papers, 98-110.
[185] Mass. Rec., IV (ii), 317.

dle party thought other agents than Bellingham and Hathorne should be sent to present a ship load of masts and plead with the king. This last proposition was opposed by the governor, Bellingham, and others, so vigorously "that no orderly debate (could) be had to know the mind of the Court." It was said that the attempt to collect money to pay for the masts would "provoke and raise a tumult."[186] In the end, however, the governor and his followers had their way, and again the king's orders were disregarded. In the same letter by which they declined the expedition against Canada, the magistrate stated to the king: "We have * * given our reasons, why we could not submit to the commission and their mandates the last year, which we understand lie before his majesty, to the substance whereof we have not to add; and, therefore, can't expect that the ablest persons among us could be in a capacity to declare our case more fully."[187] But at the same time, means were found for the collection of money with which to pay for the masts, which were accordingly sent, and friends in London were authorized to raise a loan of 1000 pounds and disburse it for the good of the country. Then as if to emphasize their refusal to obey the king's orders, the colonists in the following spring, 1667, re-elected Bellingham and Hathorne to their former positions of governor and assistant respectively. A year later they overturned the king's authority in Maine by sending magistrates beyond the Piscataqua to assert their former jurisdiction in the county of Yorkshire. After a short controversy with the justices left there by the royal commissioners, these officers were successful in their work, and Ferdinando Gorges' province once more passed into the control of Massachusetts.[188] Nicolls wrote from New York to both the council and the

[186] Danforth Papers, 110.
[187] Ib., Sept. 11. Bradstreet and Dennison recorded their votes against this answer. When the answer became known, Nicolls, Carr, and Maverick wrote to the court protesting against it and asking a reconsideration. Hutch. Coll., 408.
[188] Mass. Rec., IV (ii), 370, 372, 401.

general court to protest against this "open breach of duty" in usurping "a power over townes and persons after that it hath pleased His Majestie to signify his pleasure" otherwise.[179] But this protest was utterly ignored.

This was the last communication between Nicolls and Massachusetts. A few months later he returned to England where he resumed his position in the service of the Duke of York, and where he could report in person his impression and advice about the management of the colonies. For, though his last protest, like the earlier commands of the commissioners, had produced no effect, Nicolls had the insight to detect and the boldness to propose a remedy by which the "grandees of Boston" might be brought to terms. As early as the fall of 1665, soon after his return from Boston, he wrote to the Duke of York, "I may without boasting assure your R. Highness that within five years the staple of America will be drawn hither, of which the brethren of Boston are very sensible."[180] In the following April he wrote to Secretary Arlington; "to mee it is evident that the scituation of this place will withdraw in short time most of their trade hither, where I have begun to sett up a schoole of better religion."[181] When he learned that the general court had refused to send the agents to England, he addressed Secretary Morrice: "The Massachusetts Colony persist or rather fly higher in contempt of His Majestie's Authority * * The eyes and observations of all the other Colonie are bent upon this strange Deportment of the Massachusetts." But, he suggested, "His Majestie is wise and may easily chastise their undutifullnesse, not by force, which might frighten the innocent as well as the nocent, but by a Temporary Embargo upon their Trade, till such and such persons are delivered into the hands of Justice;" he points out that the well affected among the people "would soone give up the Ringleaders;" nor would the

[179] N. Y. Doc., III, 170, 172, June 12, July 30, 1668.
[180] Ib., 106.
[181] Ib., 114.

king lose any revenue by the embargo, for if care were taken to send enough ships and goods to New York, "all the trade of Boston would be brought hither, and from hence carried into England."[164] Maverick also, in 1667, besought the secretary that "some speedy order may be taken for a full settlement of His Majestie's colonies in New England entirely under his obedience." A year later, in November, 1667, the matter was again pressed before Secretary Arlington by Nicolls; "when His Majestie is truly informed how advantagiously wee are posted by scituation to bridle his enemies and secure all his good subjects, I humbly praesume to think that his Majestie would afford much of countenance and regard unto us."[165] But these appeals brought no response either from Clarendon or the king. Already, before the Treaty of Breda had released the attention of the English ministers, so that proper consideration might have been given to the administration of the colonies, Clarendon was being displaced in the confidence of Charles II in favor of the unscrupulous Henry Bennet, lately created Lord Arlington. Soon after that treaty had been signed, Clarendon was compelled to leave England to escape the vengeance of his enemies. Those who took his place had neither the energy nor the ability to carry out the project which he had left unfinished. For nearly ten years, until Edward Randolph was sent out to Boston as the king's receiver general in 1676, Massachusetts was allowed to assert her "false Sophistry" unmolested.

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[164] N. Y. Doc., III, 136. This course was recommended by Randolph a few years later. It is noteworthy as the punishment attempted against the same town a century afterwards.

[165] Ib., 167.

CHAPTER V.

Results.

This was the end, after six years of effort, of Clarendon's attempt to bring Massachusetts into that state of dependence "as must be necessary, as they are an English colony, which ought not and cannot subsist but by a submission to and protection from his Majesty's crown and government."[1] During this long controversy it had become plain, perhaps for the first time, that the views held in Massachusetts regarding charter rights were absolutely inconsistent with the views held in England regarding the prerogative rights of the king. From first to last the magistrates of the colony maintained that their charter guaranteed them against any kind of interference or the exercise of any kind of authority on the part of the mother country, except such as was specifically provided for in that document. Their obligations to the king of England were confined to the payment to him of one-fifth of the gold and silver mined in the colony, and a vague recognition of his sovereignty. The force and meaning of this recognition was to be determined by their charter. "Considering how I stand obliged to the king's majestie, his heires and successors, by our charter and the government established thereby, doe sweare accordingly etc.;" this was the form in which they expressed their allegiance.[2] In 1661 when it was learned that Clarendon was preparing to assert his authority in the colony, the general court prepared a statement regarding their liberties and their relations with the mother country. "Wee conceive the pattent (under God) to be the first and

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[1] See above, p. 32.
[2] Mass. Rec., IV (ii), 201.

maine foundacon of our civil politye here . . . " Their duty to the king was expressed under three heads: (1) "We ought to uphold and to our power maineteine this place as of right belonging to our soveraigne lord the king, as holden of his majesties mannor of East Greenwich, and not to subject the same to any forreigne prince or potentate whatsoever." (2) "Wee ought to endeavor the preservation of his majesties royall person, realmes, and dominions," and make known any plot or conspiracy. (3) "Wee ought to seek the peace and prosperitie of our king, and nation" by faithfully governing the colony.[3] These expressions comprehending all their obligation to, or relation with, the authorities in England, they believed themselves fully justified in refusing to admit the use of the Book of Common Prayer, because "it is apparent that it will disturbe our peace in our present enjoyments"; or to admit of an appeal to a tribunal not constituted under their charter, because such an act would be "inconsistent with the maintenance of the lawes and authority here . . . under the warrant of his majesties royall charter."[4]

The magistrates and elders believed their charter to be a mutual compact entered into on their part for convenience, because the king of England had asserted a vague title to the territory in which they wished to settle. But their real title to the land came through purchase and conquest from the natives. They thus owed a kind of voluntary subjection to the king and this was expressed in the charter.[5] In return for a quiet title to the land, and the right to make laws, and administer justice for themselves, they agreed not to subject the country to any foreign prince, to make no laws

[3] Mass. Rec., IV (ii), 25.
[4] Ib., 200, 210.
[5] Belknap, I, 63; Hutch. Hist., I, 230. "Keep to your patent . . . it is instrumentally your defense and security. Recede from that one way or the other, and you will expose yourself to the wrath of God and to the rage of man. Fix upon the patent, and stand for the liberties and immunities confered upon you therein; and you have God and the king with you, both a good cause and a good interest." President Oakes' Election Sermon, 1673.

repugnant to those of England, to christianize the natives, and to yield a fifth of the gold and silver mines to the crown. They believed that they had held rigorously to their part of the contract, and they maintained that the king should be equally scrupulous in adhering to his part. The king's prerogative or the sovereign right of the English government over all English dependencies they refuse to recognize. Bradstreet declared: "The king's prerogative gives him power to command our appearance." Dennison asserted: "the king's commands pass anywhere; Ireland, Calais, etc.," and that in England they were entitled to "a trial at law." "Prerogative is as necessary as law, and is for the good of the whole." "What," he asked, "will the king say? Is it not plain that jurisdiction is denied to his majesty?" But his was the view of the minority. Willoughby enquired "whether Calais, Dunkirk have not been governed by commissions; and if this be allowed, how easily may the king in one year undo all that he hath done." He urged "that the interest of ourselves and God's things" should have as much consideration "as his majesty's prerogative." And Hathorne asserted: "many treatises . . . do affirm that prerogative is not above law but limited by it, and the law states in what cases prerogative is to take place." When the matter was put to the vote it was the view of Willoughby and Hathorne that prevailed.[6]

Under the influence of this conception of their relations with the mother country, the magistrates were confused by the sending of the commissioners within their borders, and were utterly unable to understand how the king could in one breath confirm their charter and yet authorize his agents to examine into, and interfere with their government. On the other hand it was impossible for the people of England to appreciate or comprehend their views. Sir Robert Boyle, and their English agent, Mr. Ashurst, were familiar with the charter and friendly to the liberties of Massachusetts, yet these gentlemen saw nothing in the least objectionable

[6] Danforth Papers, 99.

in the power granted to the royal commissioners. After reading over the instructions and commission, these gentlemen refused to intercede with Clarendon for the recall of his agents. Clarendon wrote "I know not what you mean by saying, the commissioners have power . . . inconsistent with your charter." And he informed them that in cases where injustice had been done, "it cannot be presumed that his Majesty hath or will leave his subjects of New England without hope of redresse by an appeal to him, which his subjects of all his other kingdomes have free liberty to make."[7] And Secretary Morrice, in the name of the king, wrote, the commissioners "are so far from having the least authority to infringe any clause in the said Charter" that it is their chief object to "see that the Charter be fully and punctually observed;" nor can the king "understand your objection except you believe that by granting your Charter he hath parted with his sovereign power over subjects there."[8] The commissioners themselves were not less emphatic in asserting the king's prerogative right. They informed the general court "the king did not grant away his Soveraigntie over you when he made you a Corporation;" in giving them the right to make laws and administer justice "he parted not with his right of judging whether those laws were wholesome, or whether justice was administered accordingly or no;" in giving them authority over his subjects there "he made them not your subject nor you their supream authority. That prerogative certainly His Majestie reserved for himself."[9]

But beyond making these bald assertions regarding the king's prerogative, the royal commissioners made little or no progress toward reconciling these conflicting views. As the first agents of the home government who had enjoyed the privilege of travelling through the plantations from the Delaware River northward, with the express purpose of

[7] Hutch. Hist., I, App. 465.
[8] Answer to the Petition of New England, N. Y. Doc., III, 90.
[9] Commissioners to the Governor and Council, July 16, 1665, N. Y. Doc., III, 99.

observing conditions and reporting officially to the minister in London, they had an excellent opportunity, by drawing a faithful picture of the condition prevailing there, to correct the false impressions regarding the colonies and to furnish the information necessary for a thorough understanding of their needs. But the character of the commissioners, and the circumstances under which they performed their work made such an outcome impossible. Not only were all of the commissioners except Nicolls thoroughly disliked and distrusted by the people of Massachusetts; but their prejudices, to which they gave full play, made an impartial account of what they saw impossible. The work of studying conditions in New England, and of formulating the report was done almost entirely without the restraining and moderating influence of Nicolls who, with the exception of the few weeks spent in Boston on his first arrival, made but one visit to that town during his entire stay in America. This report is full of inaccuracies and furnishes but little information of value. The latter defect may, it is true, have been due to the unfortunate circumstances under which the report was made. Col. Cartwright, who returned first and carried the original records of the commissioners' proceedings, was captured on his way to England and carried to Spain by a Dutch ship, and though he succeeded in reaching England later, the papers were irretrievably lost.[10] More than a year later, Sir Robert Carr returned to report personally, but died at Bristol immediately on his arrival in England.[11] Yet it must have been malice that dictated the statements, that all the colonies had complaints against Massachusetts; that the answers which the magistrates of

[10] N. Y. Doc., III, 106, 116. The report is in the name of George Carr. It states that the papers, by which it might have been enlarged and substantiated, "were lost in obeying his Majestys command by keeping company with Captain Pierce, who was laden with masts." Had it not been for this, the ship which carried them would "have been in England 10 days before . . . the Dutch caper who after two hours fight took, stripped and landed (them) in Spain." Colonial Papers, 1665, Dec. 14.

[11] N. Y. Doc., III, 161.

this colony gave to the commissioners were "dilatory and impertinent;" that the people "will marry their children to those whom they will not admitt to baptisme, if they be rich;" that Quakers had been "beaten to a jelly;" that the "Colony furnished Cromwell with many instruments out of their Corporation and Colledge;" that they "did solicit Cromwell by one Mr. Wensloe to be declared a Free State;" and that the Indians were converted by "hiring them to come and hear sermons, and by teaching them not to obey their heathen Sachems."

As to the industrial and commercial condition of the colonies, the report gave only the most cursory account. For Massachusetts but four lines sufficed: "The commodities of the country are fish, which is sent into France, Spaine, and the Streights, pipe-stems, masts, fire-boards, some pitch and tarr, pork, beef, horses, and corne, which they send to Virginia, Barbadoes, etc., and take tobacco and sugar for payment, which they (after) send to England. There is a good store of iron made in the Province."[13] Narragansett Bay was reported as the best port in New England for trade, and Rhode Island as raising the best grass and most sheep. "Corn yields eighty for one, and in some places they have had corn twenty-sixe yeares together without manuring." New Hampshire possessed a very good harbor at Piscataqua which could be well fortified, and in which dry docks could be built. "Excellent masts are gotten" there, and the commissioners saw twenty saw mills along the river. Considering that great efforts were being made at this time to extend English trade, shipping, and manufacturing, and that the colonies were regarded as a means contributing to that end, these are very meager statements upon a subject so little understood in England as this one. There is nothing about the extent, the natural resources, or, except in the case of Rhode Island, the fertility of the soil of these plantations. Nothing is suggested about the opportunities for further colonization,

[13] Report, Massachusetts, N. Y. Doc., III, 110.

traffic with the Indians, or the introduction of other staple commodities. In fact there were no statements of any kind about the particular or general needs of the colonies.

However, as these items were either omitted from the instructions furnished the commissioners or made entirely secondary, the blame should not be placed so much to the credit of the commissioners themselves, as to the minister who was responsible for the instructions given them. The commissioners were sent out with two definite objects in view, namely: to annex the Dutch plantations, and to settle the questions in New England about religion, government and boundaries. Concerning the broader questions of colonial administration there is hardly a suggestion. Moreover, as to the two principal objects, there is no doubt, as Cartwright wrote to Nicolls, that the subjugation of the Dutch held first importance. This having been accomplished the commissioners were practically lost sight of. While the commissioners wrote often, individually as well as collectively, either to Clarendon or one of the Secretaries of State, their letters seldom received any answer. Clarendon assured Nicolls that he had "never omitted any opportunity that hath been offered" to write, and said that he had reason to believe "that many of (his had) miscarried."[13] Nor were the commissioners properly supplied with funds with which to support themselves and prosecute their travels through the colonies. As early as January, 1665, Cartwright wrote that nearly all that had been allowed them had been spent and that they were without credit. In July, Nicolls wrote that they had had no supplies since the surrender of the Dutch; in November, he informed the Duke of York that his credit had been stretched to the utmost. By April, 1666, he was, he said, "ruined in estate and credit," while "the commissioners have neither money nor creditt to follow the trust reposed in them, from place to place."[14] If it be said that the Dutch war was responsible for this

[13] N. Y. Doc., III, 116.
[14] Ib., 83, 103, 104, 115.

condition, it is not less true that that war must have been foreseen when the commissioners were directed to sieze New Netherland, and it was a shortsighted and inefficient policy that left them thus, practically stranded in a new country.

The conquest of New Netherland removed one of the chief obstacles in the way of the enforcement of the navigation acts in the American colonies. So long as the Dutch remained in control of that central province, it was impossible to prevent their trading with the surrounding English plantations. Colonel Nicolls was not slow to see the great advantage their subjection gave to England. He was no sooner seated in his governorship of New York than he began to point out to the authorities at home how this advantage should be made use of. He informed them that thousands of English colonists, from Virginia to New England, had been accustomed to be supplied with goods by the Dutch; this source of supply is now cut off; but no advantage can accrue to England unless sufficient ships laden with "merchandise to the trade with Natives and both the English, Dutch and Sweedes" be sent out. Hence he suggested that a company of merchants be formed to trade with New York. His appeal for ships and supplies was, however, not answered, and from this time to the end of his governorship his correspondence, like that of Governor Stapleton's later from Barbadoes, formed a continuous supplication for assistance that never came. "Tis a pitty," he wrote in 1665, "that this place should be neglected, for the trade will be quite lost and all the planters upon the River goe naked if not supplied." A few months later he informed the Duke of York: "The whole trade both inwards and outwards is lost for want of shipping." He said he did not live "so much in apprehension of the Dutch as in the hopes of the arrival at this Port of some English ships to the supply of Trade."[18]

It was probably with a view to this deficiency that Nicolls

[18] N. Y. Doc., III, 69, 103, 104, 106.

had, in the articles of surrender, granted the Dutch the right to trade with Holland for a period of six months. At least he now urged that this liberty be confirmed and extended. He pointed out that three-fourths of the inhabitants were Dutch whose commercial dealings had been entirely with friends at home, and that "the sudden interruption of their factory with Holland (would) absolutely destroy all the present inhabitants." If they should be granted moderate terms of trade, they would in a short time become the best support of the plantation.[16] Following out these suggestions the council for plantations listened to the petition of Stuyvesant in behalf of the Dutch traders and residents at New York, and recommended that permission be granted the Dutch to trade there for a period of seven years. Accordingly the king issued an order in council granting the privilege for three Dutch ships to visit New York yearly for seven years.[17] The English merchants, however, objected to others enjoying the benefit of a trade which they could not themselves supply, and entered a protest claiming that the three ships gave excuse to the Dutch to send others, and that by this means the whole trade with the American colonies and the West Indies was being engrossed by them, to the utter discouragement of English merchants. In consequence of this protest the privilege was withdrawn in November, 1668, and it was ordered that henceforth the navigation acts be strictly enforced.[18]

But Colonel Nicolls was not the only one to lament the inability of England to furnish ships to handle the trade of the plantations, nor the Dutch residents in New York alone in suffering from failure of supplies because of the restriction which confined the commerce of England to English ships. From 1664 on, complaints became common enough that the effect of the restriction on trade was to ruin the

[16] N. Y. Doc., III, 114.

[17] Ib., 165, 166. The reason assigned is, "in regard the necessity of a present trade in those parts which cannot at this time bee supplied from hence." Yet the date is Oct. 17, 1667, several months after the close of the war.

[18] Ib., 175, 177.

industry of the colonies. Especially was this true of the sugar plantations, where the stoppage of trade with the French was most keenly felt. The outbreak of war with Holland made conditions worse, inasmuch as many merchant ships and seamen were drawn into the service of the government, and it became increasingly difficult to secure transportation for produce from, and supplies to, the colonies. In fact the war so interfered with the English carrying trade, that the home merchants soon found their supplies cut off. Consequently they petitioned that the navigation acts be suspended for the time being, in order that goods might be imported in foreign vessels, and so escape seizure by the Dutch. But the farmers of customs opposed the scheme on the ground that it would give foreign nations too much of an insight into the condition and products of the colonies and that, once having become accustomed to visit colonial ports, it would be difficult to keep them out in the future. Moreover, they asserted, it would not serve the end hoped for because the Dutch were so familiar with English goods, that they would recognize and seize them even in foreign ships.[19] In place of this, they recommended that the ships sailing home from the colonies should come at stated times, not singly, but in fleets, and accompanied, if possible, by a convoy. By this plan it was thought the Dutch privateers might be avoided, and colonial products safely landed in England. Accordingly for several years orders were issued with a view to enforcing this scheme. Licenses were refused for ships going out to the colonies, except at the time agreed upon. But the result was not entirely satisfactory. If ships were by this method kept out of the hands of the Dutch, the goods with which they were laden often perished, owing to the inevitable delay of getting the fleet together.[20]

Under these circumstances no progress could be made toward securing a strict enforcement of the navigation acts. They were avoided on all sides. In New England the

[19] Colonial Papers, 1665, Feb. 28.
[20] Ib., 1665, Nov. 16; 1666, Dec. 15, No. 1365.